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ABSTRACT

This document presents findings and recommendations on the implementation of court ordered school desegregation in Boston. Major divisions of the document include a general section, the Boston municipal government, the State government, leadership of Boston's private sector, and the Federal government. Within these major categories, various sub-division are listed and followed by findings and recommendations thereof. The view that court-ordered desegregation of public schools in Boston for school year 1974-75 was disastrous is not supported here. Evidence developed by staff and testimony under oath from over 100 witnesses during five days of public hearings is considered to indicate that substantial progress was made in Boston in 1974-75 in the direction of upholding and implementing the constitutional rights of children and young people. The groundwork for even more significant progress in the same direction for school year 1975-76 is stated to have been laid. The Boston School Committee is said to have treated the court ordered Phase I school desegregation plan as an administrative problem and refused to take the affirmative steps necessary to desegregate successfully. The attitudes and practices that characterized their approach to Phase I are held not to have changed. Since the major administrative responsibilities for implementing the desegregation order still rests with this committee, the resolution of this unresolved issue is seen as crucial. (Author/AM)

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ED115706

DESEGREGATING THE BOSTON PUBLIC SCHOOLS: A CRISIS IN CIVIC RESPONSIBILITY

A Report of the United States
Commission on Civil Rights

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August 1975

UD 015509

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> Investigate complaints alleging that citizens are being deprived of their right to vote by reason of their race, color, religion, sex, or national origin, or by reason of fraudulent practices;
>
> Study and collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin, or in the administration of justice;
>
> Serve as a national clearinghouse for information in respect to denials of equal protection of the laws because of race, color, religion, sex, or national origin;
>
> Submit reports, findings, and recommendations to the President and the Congress.

Members of the Commission

Arthur S. Flemming, Chairman
Stephen Horn, Vice Chairman
Frankie M. Freeman
Robert S. Rankin
Manuel Ruiz, Jr.
Murray Saltzman

John A. Buggs, Staff Director

UNITED STATES COMMISSION ON CIVIL RIGHTS

Washington, D. C. 20425

August 1975

LETTER OF TRANSMITTAL

THE PRESIDENT,
THE PRESIDENT OF THE SENATE,
THE SPEAKER OF THE HOUSE OF REPRESENTATIVES

SIRS:

The United States Commission on Civil Rights presents to you this report pursuant to Public Law 85-315, as amended.

This document presents the Commission's findings and recommendations on the implementation of court-ordered school desegregation in Boston, Massachusetts. It is the result of Commission investigations in Boston which commenced in November 1974, resumed in April 1975, and culminated in a week-long hearing begun on June 16, 1975. The report, however, is not limited to Boston. Many of the findings and recommendations apply to other communities which will undergo school desegregation.

We urge your consideration of the facts presented and ask for your leadership in ensuring implementation of the recommendations made.

Respectfully yours,

Arthur S. Flemming, Chairman
Stephen Horn, Vice Chairman
Frankie M. Freeman
Robert S. Rankin
Manuel Ruiz, Jr.
Murray Saltzman

John A. Buggs, Staff Director

STATEMENT OF THE COMMISSION

Throughout the Nation the prevailing view is that court-ordered desegregation of the public schools in Boston proved to be a disaster during the school year 1974-75.

We take issue with this conclusion. We have weighed the evidence developed by our staff and the testimony under oath from over 100 witnesses during 5 days of public hearings. We conclude that, on balance, substantial progress was made in Boston in 1974-75 in the direction of upholding and implementing the constitutional rights of children and young people. We conclude further that the groundwork has been laid for even more significant progress in this direction in the school year 1975-76.

The negative side of the ledger is replete with actions and with failures to act which have left scars on the life of the city that will take many years to erase. On the other hand, the affirmative side of the ledger contains many entries that reflect deep-seated commitments as to the moral and constitutional values that are clearly delineated in the opinions rendered by the Federal district court. These positive actions have and will continue to have a far more lasting impact on the life of the city than those actions which have been designed to undermine the Constitution of the United States.

We have taken note of the serious disorders that took place in and around four schools. We have also taken note of the fact that desegregation proceeded in a peaceful and orderly manner in and around 76 schools.

We have identified the fact that the Boston School Committee has consistently and persistently refused to accept the responsibilities have been placed on them by the Constitution of the United States as defined by the Federal district court. We have also identified the fact that, in spite of this lack of leadership and defiance of the Constitution by the school committee, creative school administrators, joined by dedicated faculty, parents, students, and community leaders, were able in some schools to set aside initial fear and mistrust, replace suspicion and hostility with cooperation, explore new avenues for racial harmony, and achieve integration in such a manner as to make significant contributions to the educational growth and development of their students.

We have taken note of the failure of the Mayor and other city officials to support unequivocally the Federal district court's finding of violation of the Constitution by the Boston School Committee and the court's subsequent orders designed to bring the school committee into conformity with the Constitution. We also have identified the personal efforts on the part of the Mayor, and city officials, to maintain the peace, to plan in preparation for desegregation, and to organize neighborhood teams and biracial student teams in an effort to lesson tensions by developing a better understanding of common aspirations.

We have taken note of the weaknesses in the Boston Police Department and of a failure to bring about effective coordination of Federal, State, and local law enforcement activities. We have also recognized, however, that for most of the school year, due in part to the activities of Federal and primarily State and local law enforcement personnel, there were no interruptions to the educational program because of violence. When violence did occur it was confined to a comparatively small number of areas.

We have identified the failures on the part of leaders in many segments of the city's life to speak out in no uncertain terms in support of the constitutional and moral values which are an integral part of the court-ordered desegregation plan. At the same time the evidence presented to us makes it clear that many persons within the various segments of the city's life have been willing to speak up in support of these constitutional and moral values.

We recognize that the Federal Government failed to provide the leadership that should have been provided in support of the court's decision. We also recognize that officials associated with various agencies of the Federal Government rendered invaluable assistance to the Federal district court, the city, and the Boston schools throughout the school year.

Vigorous efforts should be made by all who are a part of the Boston community, with the support of both the Federal and State Governments, to build on the foundation laid by those who were responsible for the actions which have been centered on the affirmative side of the ledger.

We have weighed the evidence relative to the preparations that are being made for Phase II. We believe that:

-- The Phase II desegregation plan presents a unique opportunity to accomplish a substantial upgrading of education in the Boston public school system because, among other reasons, of its provisions for establishing strong linkages between public school education and institutions of higher education, business institutions, labor organizations and the arts.

-- Additional schools will follow the leadership of those schools which made significant progress in the direction of desegregation during Phase I,

-- Activities of Federal, State, and local law enforcement agencies will be coordinated in a far more effective manner.

-- Leaders of various segments of the city's life will make it clear by both word and deed that they unequivocally support desegregation as ordered by the court because of the constitutional and moral values that are at stake.

-- The Citywide Coordinating Council, appointed by the Federal district court, will provide the focal point which was lacking during Phase I for coordinating all of the activities designed to support the court order.

-- The Federal Government's leadership will be more effective and its activities will be better coordinated.

In brief, there are significant signs of hope.

Boston, however, continues to confront one unresolved issue that could prove to be the Achilles heel of the entire program for upholding and implementing the constitutional rights of the children and young people of the city.

The major administrative responsibilities for implementing the order of the Federal district court rest, under the law, with the Boston School Committee. This committee has given no indication of a willingness to change the attitudes or practices which characterized its approach to Phase I.

In one of our findings, fully supported by the evidence, we reached the following conclusion:

> Ordered by the Federal district court to eliminate every form of racial segregation in the public schools of Boston, the Boston School Committee has pursued a deliberate policy of minimal compliance. The effect of the Boston School Committee's statements, policy, and inaction was to foster within the community outright resistance to school desegregation.

It is axiomatic that if those who have been given the responsibility to administer a program decide to do everything possible to undercut the program there is very little possibility of the program's potential being realized.

Therefore, it is our recommendation that if the Boston School Committee persists in its refusal to take affirmative actions in support of the constitutional rights of the children and young people of Boston, the Federal district court should consider placing the Boston's public school system in receivership and designating the State board of education, some other public officials, or a private institution or person as the receiver. Both the legal reasons in support of this possible action and a legal precedent are discussed in the body of our report.*/

We recognize that no court would take action such as that recommended above except as a last resort. We believe, however, that no public body at any level of government should continue to be responsible for the conduct of the public's business if the members of that body believes that they are above the Constitution and the law.

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*/ See Recommendation 14, infra.

PREFACE

As a result of the significant unrest and disruption that did occur in late 1974 and 1975, the Massachusetts Advisory Committee to the U.S. Commission on Civil Rights requested the Commission to come to Boston and investigate the implementation of school desegregation.

The Commission sent staff to Boston in November 1974 to make a preliminary assessment. Based on their report, presented in December 1974, the Commission wrote to President Ford recommending substantially increased and well-coordinated Federal support and leadership.

In February the Massachusetts Advisory Committee met in Boston with members of the Commission and urged them to convene public hearings. In March 1975, the Commission authorized a team of lawyers and social scientists to begin a full-scale investigation of public school desegregation in Boston. In April the Commission announced its intention to convene public hearings in Boston on June 16, 1975.

In preparation for the hearing and in the issuance of subpenas to compel the appearance of witnesses and testimony, the Commission sought to obtain the views of all parts of the Boston community. Commission staff was supplemented by two leading law enforcement consultants, and historical background materials were obtained from the Massachusetts Research Center. Extensive use was also made of the individual and collective advice and expertise of the Massachusetts Advisory Committee, many of whose members are intimately involved in the Boston community.

The Commission carefully delineated the scope of the hearing in order to focus solely on the implementation of public school desegregation. The hearing was not held to decide whether school desegregation should or should not occur, or whether mandatory pupil transportation should be used to achieve it. The Commission has studied school desegregation in numerous communities throughout the country for more than a decade. Its position on desegregation has been and continues to be clear. In Twenty Years After Brown: Equality of Educational Opportunity, the Commission stated:

> Opponents of desegregation, and many proponents as well, often suggest that if desegregation were ordered to achieve equal educational opportunity, then desegregation must be justified primarily by the academic achievement of majority and minority pupils in desegregated schools. Achievement, in such cases, frequently is defined as the outcome reflected in cognitive test scores. The controversy surrounding testing itself, its meaning and cultural and language bias, generally is discounted. Even on these terms, however, the available data generally are supportive of desegregation.
>
> * * * *
>
> All such considerations avoid the basic issue: the 14th amendment to the Constitution, not scientific findings, governs both desegregation of the public schools and the transportation, if required, to achieve it. Decisions affecting desegregation rest on legal and moral grounds rather than on scientific research, regardless of its results.

Over 100 witnesses, representing the entire spectrum of views and experiences concerning school segregation, appeared at the 5-day session in June. An additional group of persons appeared voluntarily in open session and presented the Commission with brief statements of their personal or organizational views.

This report is drawn from the June hearing as well as from the expertise the Commission has developed concerning desegregation in other areas of the Nation.

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The Boston hearing project upon which this report is based was directed by Paul Alexander, Assistant General Counsel.

The Commission expresses its appreciation to the staff member [illegible] consultants who participated in the project including: Mary V. [illegible] Mary Baltimore, Eugene Bogan, Jessalyn P. Bullock, Kathleen Buto, James Corey, Suzanne Crowell, Frederick D. Dorsey, James Fisk*, Ruth Ford, Raymond Galvin*, Ellen Hafer*, Mary E. Hartley, Jack P. Hartog, Gregg B. Jackson, Frances C. Lee, Michele Macon, Carol McCabe, Eliot H. Stanley, Donald Stocks, Mardon Walker, William White, Louis Wilmot, and Jacques E. Wilmore.

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*Consultants

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BACKGROUND

Boston has been perceived as a center of enlightened thought on the subject of human and civil rights since the revolutionary era. However, Boston's history tells a sometimes conflicting story. Ethnic, racial, and religious discrimination have produced varied degrees of political and social conflict over the years. Boston's neighborhoods are clearly delineated by race and ethnicity, and discrimination against various groups has been a fact of Boston life. The progressive intellectual tradition of the city embodied in its academic and cultural institutions has existed side by side with ethnic and racial division.

For years Boston's black community was stable in number and consisted largely of people who lived there for generations. Since the Second World War, the black population has grown rapidly and segregated housing and schools have increased. In 1960 nearly 80 percent of black public elementary school students attended majority black schools; over 35 percent of all black elementary school students attended schools that were 90 to 100 percent black.[1] A similar pattern of segregation emerged in housing.[2]

In 1961 open enrollment was adopted as school policy as a means by which black students might transfer to predominantly white schools. For over a decade this policy remained in effect. It achieved nothing as far as school integration was concerned, since white students were also free to transfer from schools whose compositions were not to their liking. In April 1965, the report by the Advisory Committee to the Massachusetts State Commissioner of Education found "that Boston contained 45 racially 'imbalanced' schools--i.e., schools with more than 50 percent nonwhite students. . ." [3] The committee noted that "[O]pen enrollment alone cannot achieve school integration. Relying on open enrollment places the responsibility for school integration on the uncoordinated actions of thousands of parents, rather than on the planned actions of schools themselves." [4]

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[1] U.S. Commission on Civil Rights, Racial Isolation in the Public Schools (1967), p. 4.

[2] Morgan v. Hennigan, 379 F. Supp. 410, 472 (D. Mass. 1974), aff'd sub nom. Morgan v. Kerrigan, 502 F.2d 58 (1st Cir. 1974) cert denied. 42 U.S.L.W. 3560 (___ U.S. ___ May 12, 1975).

In view of these findings and of growing pressure from the black community in Massachusetts, the State adopted the Racial Imbalance Act of 1965, a law which included the most advanced school integration requirements of any major city in the Nation. According to the act, any school with a nonwhite enrollment of more than 50 percent was "imbalanced." [5] Strong sanctions were available for use against local school committees which failed to correct such imbalance; the commissioner of education could refuse to certify all State school aid for that system.

While at first glance passage of this legislation appeared to represent a significant step forward towards integration, in truth it achieved little. The act did not require integration of all-white schools; it prohibited involuntary interdistrict transportation; and its guidelines for compliance were vague, opening avenues for procrastination and evasion which the Boston School Committee, as later developments proved, used to full advantage. Moreover, debate over the act revealed an intensity of opposition which boded ill for the future.

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[3] Id. at 417.

[4] Advisory Committee on Racial Imbalance and Education, Massachusetts State Board of Education, Because it is Right--Educationally (April 1965), p. 4.

[5] Mass Gen. L. Ch. 71§§37C and 37D (1969) (Supp. 1975).

During the next 8 years State education authorities sought futilely to implement the Racial Imbalance Act and to compel the Boston School Committee to integrate at least a substantial portion of its public schools. A host of State agencies became involved, including the State board of education and the Massachusetts Commission Against Discrimination. Suits and countersuits were filed in State courts.

Out of pessimism over prospects for change, black parents in Boston organized their own programs in their quest for equal educational opportunity for their children. Operation Exodus was created by black parents in Roxbury to transport nearly 600 black students to predominantly white schools during the 1965-66 school year. In September 1966, another transfer program organized by blacks--Metropolitan Council for Educational Opportunity (METCO)--transported black students to suburban school systems that volunteered to take them.

By 1971, however, Boston's public schools were more segregated than ever. Some 62 percent of the black pupils (then 32 percent of total enrollment) attended schools that were more than 70 percent black. 6/

In view of the increased segregation and continued defiance of the State by the Boston School Committee, the local chapter of the National Association for the Advancement of Colored People (NAACP) filed suit in Federal district court in March 1972, alleging governmental

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6/ U.S. Commission on Civil Rights Staff Report, School Desegregation in Boston (June 1975), p. 20 (hereinafter referred to as Staff Report).

discrimination in creating and maintaining a segregated public school system. The Federal executive branch also became involved in Boston for the first time. In November 1971, the U.S. Department of Health, Education, and Welfare (HEW) wrote a letter to the school committee charging discrimination in certain educational programs. The letter was the first step in a process that would lead 2 years later to a finding of discrimination by HEW and a threat to cut off all Federal education funds.

In 1973, the State board of education, having found a number of Boston School Committee integration proposals unacceptable, presented its "Short-Term Plan to Reduce Imbalance in the Boston Public Schools." This plan, designed solely to meed the limited requirements of the Racial Imbalance Act, proposed to reduce the number of imbalanced schools from 61 to 42 by redistricting; reorganizing the grade structure into an elementary (K-5), middle (6-8), and high school (9-12) system; and by busing about 19,000 of the city's approximately 83,000 students to different schools.

In March 1974, the Boston School Department notified parents and students of new school assignments for September 1974 pursuant to the State's "Short-Term Plan." Moves, however, were being planned in a number of quarters to thwart the action of the State court. The Governor and many State legislators promised to seek repeal or modification of portions of the Racial Imbalance Act. Such action might negate the State court-imposed plan. 7/

7/ Whether such action would be constitutional is open to question; see, e.g., Reitman v. Mulkey, 387 U.S. 369 (1967). The practical effect, however, would have been to tie the matter up in litigation again, thereby postponing implementation.

On June 21, 1974, the Federal district court in Boston found that the Boston School Committee had unconstitutionally fostered and maintained a segregated public school system. The ruling was a sweeping condemnation of Boston School Committee policies which, the court found, had been "knowingly" designed to foster segregation.[8/] As a result of these policies, racial segregation permeated schools "in all areas of the city, all grade levels, and all types of schools."[9/]

The court noted that segregation had occurred in the use of facilities and construction of new structures--for example, in selection of school sites and the use of portable classrooms. Segregation resulted from the way district lines were drawn and redrawn, from open enrollment and controlled transfers, and from faculty and staff assignments. Examples of each, with specific schools and dates, were noted.

The court explicitly rejected the school committee's main defense --that school segregation in Boston was the inevitable consequence of segregated housing patterns and an increase in the city's black population. The court also pointed out, in response to the committee's claim that it had operated a valid neighborhood school system, that school committee policies--extensive busing, open enrollment, multi-school districts, magnet schools, citywide schools, and feeder patterns--were in fact "antithetical" to a neighborhood school system.[10/]

The court, perhaps anticipating strong opposition to its ruling, stated that "No amount of public or parental opposition will excuse avoidance by school officials of constitutional obligations." [11/]

[8/] Morgan, supra, at 410.

[9/] Id. at 424.

[10/] Id. at 473.

[11/] Id. at 482.

The findings contained in the Federal court decision were ignored by those opposed to desegregation. The years spent resisting the Racial Imbalance Law, combined with general opposition to "forced busing," reinforced a posture of defiance. Specific acts of resistance--frequent and persistent as they were--became less important than the atmosphere of hostility encouraged by public officials who sanctioned defiance.

Opponents discounted the question of culpability for creating the evil of segregation, as they did the effect of segregation on the community. The legal foundation and moral obligation for desegregation was also ignored. Instead absolute opposition to court-ordered desegregation held sway. The rule of law was also challenged by those who portrayed the constitutional process as somehow illegitimate. Opposition to desegregation became the accepted community norm. Behavior in defiance of the constitutional process seemed to many--albeit erroneously--to be a legitimate exercise of individual rights.

In the face of such opposition, the Federal district court ordered the parties to submit desegregation plans. Once a determination of constitutional culpability for school segregation is made, this remedial phase in the litigation process is crucial. The Federal district court must make sure that the remedy--the desegregation plan--passes constitutional muster, according to guidelines set forth by the Supreme Court in the years since the decisions in Brown v. Board of Education, 349 U.S. 294(1955). The initial burden of eliminating school segregation falls on the party responsible for it in the first place--in this case, the Boston School Committee. The Supreme Court has stated:

> School boards. . .operating state-compelled dual systems [are]. . .charged with the affirmative duty to take whatever steps might be necessary to convert to a unitary system in which racial discrimination [is] eliminated root and branch.

* * * *

> The burden on a school board today is to come forward with a [desegregation] plan that promises realistically to work and promises realistically to work now. [12]

A desegregation plan meets constitutional standards only if it is "effective" and makes "every effort to achieve the greatest possible degree of actual desegregation, taking into account the practicalities of the situation." [13] Such plans must not only eradicate separate schools, but also guard against resegregation.[14]

Where school officials fail to discharge their duty to develop acceptable desegregation plans, a Federal district court then may issue appropriate orders to accomplish what local authorities either fail or refuse to do. The Supreme Court has approved a wide variety of techniques, including the use of mathematical ratios of minorities to whites in a school system as a "starting point" for shaping remedies.[15] Other methods endorsed by the Court include restructuring of attendance zones, pairing and clustering of schools, and the transportation of pupils.[16]

The keynote, however, is that the remedies must be "reasonable, feasible, and workable" (emphasis added).[17] The so-called neighborhood or walk-in school has no special constitutional significance. In fact, remedies cannot be limited to the walk-in school where such remedies will not result in desegregation. The only restriction of the district court's remedial powers pertinent to Boston is that the remedy may not reach parties not shown to be culpable.[18] In the Boston case, suburban jurisdictions could not be included in the remedy since the litigation showed no culpability on their part.

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[12] Green v. New Kent County School Board, 391 U.S. 430 (1968).

[13] Davis v. Board of Commissioners, 402 U.S. 33, 37 (1971).

[14] Monroe v. Board of Commissioners of the City of Jackson, 391 U.S. 450, 459 (1968).

[15] Swann v. Charlotte Mecklenburg Board of Education, 402 U.S. 1, 25 (1971).

[16] See Foster, "Desegregating Urban Schools: A Review of Techniques," 43 Harv. Educ. Rev. 5 (1973).

[17] Swann v. Charlotte Mecklenburg Board of Education, supra, at 31.

The Federal district court in Boston adopted a two-phase remedy. It ordered implementation of the short-term State "imbalance" plan[19] in September 1974, as the State court had already directed; this plan became known as Phase I. The court then ordered the Boston School Committee to develop a full plan to desegregate the Boston public schools beginning in September 1975 (eventually known as Phase II).

From June to August 1974, the Boston School Committee asked for and received the opportunity to modify the Phase I plan within permissible constitutional perimeters. Their efforts were unacceptable. Later it became apparent that the committee's opportunity to develop a plan for Phase II would also produce nothing. Instead, the Federal district court eventually appointed a panel of special masters to design the Phase II plan. The Phase II plan is a comprehensive effort to upgrade education in Boston and to involve all components of the community in the desegregation process.

Although the Phase I plan had been adopted by the State court in late 1973 and pupil assignments had gone out several months prior to the Federal district court order, Boston's readiness for desegregation was marginal. Prior to the Federal court order, most Bostonians believed—and for 10 years they were correct—that desegregation would never occur in Boston.

Planning over the summer was haphazard. The superintendent of schools bore the individual responsibility for desegregation planning; an earlier attempt to delegate this task to a full-time person had been turned down by the school committee. The school department's functions are normally curtailed during the summer and the limited staff available in 1974 focused primarily on logistics. A 2-week training program for school personnel was hurriedly organized and held in August. Attendance was voluntary but paid. At the local level the preparation by headmasters and other faculty ranged from extensive to almost none.

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[18] Milliken v. Bradley, 418 U.S. 717 (1974).

[19] Morgan v. Hennigan, supra note 2.

The city government, which was responsible for law enforcement during school desegregation, developed a plan that focused on the logistics of pupil transportation. It determined, as a result of its experiences with student and civil disturbances in the 1960s, that police should have a low profile.

In conjunction with its law enforcement responsibilities, the mayor's office assigned to the neighborhood "little city halls" the responsibility for local coordination and planning. Other city agencies were involved but played a low-key role. City officials such as the youth activities commission worked to a limited extent with the little city halls.

Only a few individuals outside government issued statements in support of school desegregation. The Boston media concentrated on balanced coverage in order to avoid arousing emotions by focusing exclusively on negatives. In addition, a public service advertising campaign was designed, utilizing community figures such as sports stars, to emphasize that peaceful implementation could occur. The campaign did not support school desegregation as such.

Another development in the months prior to the opening of school was the consolidation of "anti-busing" groups under an umbrella organization known as ROAR, an acronym for Restore Our Alienated Rights. Public officials who had become prominent opponents of "forced busing" during the last 10 years were publicly associated with ROAR. Rallies and marches were held over the summer.

In the black community apprehension grew over the opening of schools in September 1974. In late summer, major black community organizations coordinated their efforts to provide safety for black and white youngsters who would be entering the newly desegregated schools. With some exceptions, no similar activities were undertaken by predominantly white community organizations.

The Federal Government failed to provide effective coordination in support of the desegregation order.

In this setting school opened--albeit 2 weeks late to provide some additional planning time--in September 1974. In the vast majority of schools, desegregation was peaceful. However, the boycott of schools that had been widely projected, but **that** many believed had only a short term potential continued from September throughout the academic year. School attendance fluctuated between 40,000 and 60,000 students in a system with a potential enrollment of 80,000.

In the few schools where incidents did occur, they were serious and protracted and received much national publicity. The activities in and about these schools, particularly South Boston and Hyde Park High Schools, formed the national image of Boston. The police department soon shifted its low visibility strategy to one of massive police presence.

In October the city government asserted that it could not contain the opposition to desegregation at the trouble spots, and the mayor requested the Federal Government to provide U.S. marshals and other Federal law enforcement support. The Federal district court refused to order such support and the U.S. Department of Justice would not volunteer it.

Both refusals were based on principles of constitutional federalism. Boston would have to exhaust all available local and State resources before Federal law enforcement support would be provided. Significant numbers of State and metropolitan district police were made available to the city. At one point the National Guard was placed on alert, as were Federal troops. Throughout the remainder of the academic year two troubled high schools were physically occupied by large contingents of police.

While national attention focused on resistance, some Boston schools managed, with little publicity but with much dedication and hard work, to function well and provide increased educational opportunities for their students.

1. GENERAL

A. NATIONAL SCHOOL DESEGREGATION

FINDING [1]

F.1. Successful desegregation requires that local school boards take affirmative steps to marshal and coordinate all available resources within and outside of the school system to deal with each of the following:

(a) Systemwide review. Planning to meet the substantive and administrative needs of a desegregating school system requires a current assessment of those needs.

(b) Involvement of all parties. Successful school desegregation can be achieved only with substantial efforts to make it work on the part of all the participants in the process--the school board, the superintendent, school personnel, the news media, civic leaders (including religious leaders), parents, and students.

(c) Dissemination of information. The community should be kept fully informed at every step in the school desegregation process on such matters as: what the plan entails, how each party is affected, and how each party can participate in the process.

(d) Affirmative leadership. A vital element in successful school desegregation is the support of leaders from all segements of the community; political, governmental, religious, civic, economic, educational, and religious among others.

(e) Communication among all parties. All parties having any role in the process should keep one another regularly informed of what steps are being taken to implement the school desegregation program.

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[1] Findings are consecutively numbered throughout the report.

(f) *Coordination among all parties. All parties having any role in the desegregation process should coordinate their efforts to ensure the most efficient use of personnel and resources*.

(g) *Training. Desegregation training of two types is required: one to provide the technical and professional skills needed to design, establish, and operate a desegregated school system; the other to provide human relations skills, such as conflict management or cultural understanding*.

(h) *Student attendance. Steps should be taken to enforce mandatory school attendance laws and to ensure that students do not leave a school system voluntarily*.

(i) *Student discipline. Where discipline needs to be exerted to preserve order so that learning can occur, it must be administered in a racially neutral manner; where students are removed from school for disciplinary reasons, the school system should provide alternative possibilities for their education*.

(j) *Funding. Implementation of desegregation will often require additional expenditures by the school system*.

In the past 5 years, the United States Commission on Civil Rights has studied the school desegregation process in 19 school districts across the Nation.[2] Some were in the North, others were in the South; some had desegregated voluntarily, others were under court order to do so. The purpose of these studies was to present documented facts, both positive and negative, concerning school desegregation in communities which were, and in many cases still are, undergoing change.

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[2] United States Commission on Civil Rights, *Five Communities: Their Search for Equal Education* (1972) (hereinafter cited as *Five Communities*); *The Diminishing Barrier: A Report on School Desegregation in Nine Communities* (1972) (hereinafter cited as *Nine Communities*); *School Desegregation in Ten Communities* (1973).

Schools in the 19 districts studied have experienced varying degrees of success. All, however, shared a determination not to be overwhelmed by problems, but to seek workable solutions. 3/

According to one Commission report, no community can achieve successful desegregation without substantial support and effort from that community's leadership--political, civic, educational, and religious. 4/ Along these lines, the 10 findings set out above should be the primary objectives for any school system seeking to desegregate its schools.

School desegregation requires something akin to a retooling of the system in which it will operate. It is important that the retooling process be planned carefully and thoughtfully, well in advance of its implementation, so that all parties are as prepared as possible to assist in the transition to desegregation. The first step in planning for such a change is to carry out a systemwide review to assess what needs to be done and how it can best be accomplished. The benefit to be gained from such an assessment is both short and long term. The short term gain is obtaining an accurate definition of needs that must be met on an immediate basis. The long term benefit, already experienced by some communities where school desegregation is underway, is the opportunity to take a new and hard look at a school district's educational program in order to discard what is no longer useful and institute educational innovations that can improve the system for all who are part of it. 5/

3/ Nine Communities, p. 3.

4/ School Desegregation in Ten Communities, p. 4.

5/ Ibid., p. 6.

Widespread community support and involvement eases the path of school desegregation. In some school districts that have desegregated voluntarily, such involvement has begun at the level of designing a desegregation plan, but at the very least the involvement of all parties must begin at the initial stages of implementation. The school system in Hillsborough County (Tampa), Florida, began to desegregate in 1971 with a minimum of difficulty. Broadly based community involvement and support were primary factors in Hillsborough County's success. The school board set up a community desegregation committee to include the public in both the design and implementation of the desegregation plan. Participation on that committee by major civic leaders and opinion makers gave the plan collective community support; those who helped design the plan had a vested interest in its success. [6]

Availability of correct and complete information is a critical factor in a community's acceptance of school desegregation. Community residents must be made fully aware of the desegregation plan and how it will affect them and their children. Opportunity should be provided for parents and students to visit and learn to know their newly assigned schools and teachers. Fears about desegregation can be diminished by full knowledge and understanding; rumors can be controlled better when information is freely available. As the Commission concluded in a recent publication:

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[6] School Desegregation in Ten Communities, pp. 6, 7. The 156-member Community Desegregation Committee represented not only the recognized community leadership, but also those persons who had expressed the strongest feelings either for or against school desegregation. Included were 30 students, members from the White Citizens Council and the National Welfare Rights Organization, as well as parents, newspaper editors, radio and television personnel, and bank presidents.

> Experience also shows that failure to take these preparatory steps severely reduces the chances for success. In some communities, last ditch opposition to school desegregation--down to the day of school opening, and beyond--has precluded such preparation and has prevented school systems from making the transition to desegregation in an atmosphere of public calm and awareness. 7/

Successful school desegregation requires affirmative leadership. Community leaders must do more than maintain a position of neutrality on the issue of desegregation. Positive support will promote an atmosphere of community acceptance in which school desegregation can be implemented much more easily. The way in which school officials, civic leaders, and the news media respond to disruptive incidents, for example, can work either to preserve calm or heighten tension. 8/ The school administration has a primary role in this process, because it is responsible for designing and carrying out day-to-day policy. School administrators must stress obedience to the law, emphasize the opportunity desegregation represents for positive and innovative educational change, and take every possible step to assure that the process not only works, but works well.

Procedures must be established early in school desegregation planning which will ensure that all parties to the process communicate with each other and coordinate their efforts. Such coordination is mandatory if duplication and confusion are to be avoided. In the Union Township, New Jersey, school district, which desegregated in compliance with Title VI requirements, school board members considered communication with the community most important. The

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7/ School Desegregation in Ten Communities, p. 7.

8/ Ibid., p. 9.

board met continually with parent-teacher associations and black and white community leaders, seeking their advice and keeping them informed at every step of the planning and implementation process. 9/

Special training for faculty and staff to aid understanding of the problems and needs arising from desegregation is essential to success. Similar training is also useful for parents and students. Financial assistance for such training should be sought through Federal programs such as the Emergency School Aid Act (ESAA); Title IV of the Civil Rights Act of 1964, which provides for technical assistance to desegregating school districts; and Title I of the Elementary and Secondary Education Act (ESEA). 10/

Boycotts have been used by students to oppose the desegregation process. Because school attendance is required by statute, 11/ a student who is engaged in a boycott is legally truant from school and can be penalized. Desegregating school districts should make a concerted effort to keep students in school and should use legal means to return nonattending students to the educational process. Attention should also be paid to the possible misuses of disciplinary suspension during desegregation. A recent Commission publication makes the point that:

> There is evidence that disciplinary action against minority pupils in some desegregated schools has resulted in high numbers of expulsions and suspensions. For this reason and because of hostility directed against them, these students often terminate their education and become pushouts. 12/

9/ School Desegregation in Ten Communities, pp. 130-31.

10/ Ibid., pp. 6, 7.

11/ Mass. Gen. L. Ch. 76 §§ 1, 2, 4 (1969).

12/ U.S. Commission on Civil Rights, Twenty Years After Brown: Equality of Educational Opportunity (1975) p. 89; See also, Children's Defense Fund, Children Out of School in America (1974) p. 7, et seq.

Finally, all sources of funding, both public and private, should be explored by the desegregating community, not only for training, but also to defray other expenses and to take advantage of special programs which may be available specifically for desegregation purposes.

RECOMMENDATION [13]

R.1. Local school boards and community leaders faced with desegregating their school systems should utilize the findings set out above as a guide in designing and implementing a successful program of school desegregation.

The 10 objectives listed in the findings are first steps toward making desegregation successful. Each school district must determine what will work for its school system, based on its own unique or common factors. There can be no assurance that school desegregation will be accomplished without some difficulty, for no established formula exists which can guarantee success. However, the experience gained by the 19 school districts studied can be used by other communities to plan and implement successful desegregation. [14]

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[13] Recommendations will be consecutively numbered throughout this report.

[14] *School Desegregation in Ten Communities*, p. 11.

B. PUBLIC LEADERSHIP IN BOSTON

FINDINGS

F.2. All public officials, particularly those heading various units of government, should publicly commit themselves and the resources at their command to the support of Phase II school desegregation in Boston.

As noted previously, the Commission on Civil Rights has studied school desegregation in communities throughout the country and has evaluated what it takes to make desegregation work in a given community. In a 1973 report entitled School Desegregation in Ten Communities the Commission concluded:

> Above all, . . .successful school desegregation is not achieved without substantial effort on the part of many groups and individuals--the school board, the superintendent, the teachers, the news media, civic leaders, and the students themselves. 15/

Further, in a 1975 report, the Commission found that:

> Given adequate preparation, planning, and leadership, desegregation can and has been a force contributing to substantial improvement in the quality of education, including among other factors the opening of new opportunities to know and understand persons of differing backgrounds. 16/

Testimony at the Boston hearing, as well as the investigation preceding it, provides a picture of uncoordinated and uncertain leadership at critical decisionmaking levels. The breakdown in leadership occurred at all levels--Federal, State, and city--and involved both policy and public statements, made or not made.

15/ Ibid., p. 4.

16/ U.S. Commission on Civil Rights, Twenty Years After Brown: Equality of Educational Opportunity (1975),Finding No. 4, p. 88.

The Commission heard testimony critical of the Federal role from, among others, the mayor, [17] leaders of the black community, [18] and the Chairperson of the Massachusetts State Advisory Committee to the Commission. [19] From the mayor's perspective the Federal Government maintained a "studied posture of . . . not wanting to get immersed" in Boston's need for both enforcement and financial aid. [20] The Massachusetts Advisory Committee was "dismayed" at the lack of a visible Federal role and presence in Boston, [21] and black leaders were strongly critical of comments made on October 9, 1974, by President Ford regarding Boston. Perception of the President's comments was reflected in this exchange at the hearing:

> Commission Counsel: What, in your opinion, were the significant factors that led to the negative and violent response to school desegregation in Boston?
>
> Percy Wilson: Well, in my opinion, it was: one, the climate set by the President of the United States when he made his statement that he was not in favor of the order; . . . [22]

The role of the Governor's office is less clear because of the change in administration at the beginning of 1975. A representative of the present Governor, without criticizing the performance of the previous administration or conceding less than total commitment by the new Governor to school desegregation, testified that:

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[17] Transcript of Hearing before United States Commission on Civil Rights, Boston, Massachusetts, June 16-20, 1975, pp. 1174-75, 1195 (all citations to testimony and exhibits refer to this transcript).

[18] *Ibid.*, p. 214. Testimony of Percy Wilson, Executive Director, Roxbury Multi-Service Center, Inc., of Boston, p. 218; testimony of Thomas Atkins, President, Boston NAACP, p. 952.

[19] Testimony of Julius Bernstein, p. 69.

[20] P. 1195.

[21] P. 69.

[22] P. 223.

> . . .from the standpoint of the Governor and myself, I think one of the things that is going on is that at least some of us are beginning now to say that [school] desegregation is a must 23/

Other persons indicated that while communication and coordination between the mayor's office and the Governor was a problem in 1974, an improved climate now exists in which planning, particularly for public safety, is proceeding without friction. 24/

At the mayoralty level, testimony indicated that (1) the role of Mayor Kevin White in Phase I and II is significant and that (2) his leadership was ambivalent. An indication of the importance of what a mayor says or does not say can be found in a statement to the Commission by a Dorchester parent:

> I. . .convinced our neighbors to send their children to school, and I promised them, because the mayor had promised us, that our children would be protected. 25/

While what the mayor said or did not say was of central importance in leading Boston through its first year of school desegregation, certain policy decisions and actions taken by the mayor and his staff also clearly influenced the course of events. Foremost among these were the law enforcement policy decisions made by city officials. 26/

23/ Testimony of Paul Parks, Secretary of Education, pp. 49-50.

24/ Interview with Peter Meade, Director, Office of Public Services, City of Boston, by Paul Alexander, Assistant General Counsel, USCCR, July 18, 1975. On July 31, 1975, a law enforcement plan was submitted to the court; this plan indicates a high level of coordination between city and state law enforcement agencies.

25/ Testimony of Joan Moss, co-chairperson, Parent Biracial Council, Burke High School, p. 264.

26/ See Section 2D for extended discussion of this issue.

The initial policy was to maintain low police visibility. This policy was altered early in certain schools, after major incidents. Less than 1 month after school opened on October 7, 1974, Mayor White declared that:

> We can no longer maintain either the appearance or the reality of public safety and the implementation of the plan in South Boston without endangering those sections of the city which have been relatively calm and peaceful. 27/

As a result of the mayor's hedging on police protection in South Boston, it became unclear to the public how and by whom public safety would be maintained anywhere in the community.

The action or inaction of public officials charged with responsibility to implement school desegregation has its human dimension. A black community leader put it this way:

> Our children have become disenchanted. One of the most disenchanting experiences they had was the day that they were set upon in South Boston High and the police expressed an inability to bring them out safely and they got out only by luck, and all of us sat here with egg on our faces, because, as some of the youngsters said to me, you couldn't come and get us.
>
> So if the police couldn't bring them out, the school authorities couldn't defend them, we were told that Federal intervention had to wait until some miraculous time when somebody was actually injured or died. And no one had any ability to protect the children. 28/

To understand the problem of public leadership in Boston, it is useful to compare the Boston experience and that of Springfield, Massachusetts, as revealed by two members of the Commission's Massachusetts Advisory Committee:

27/ The Boston Globe, May 25, 1975, A15, summarizing events of the preceding year.

28/ Testimony of Elma Lewis, Director, Elma Lewis School of Fine Arts and National Center of Afro-American Arts, Boston, pp. 234-35.

> Dr. Schuck: . . .without political leadership, the plan could never have succeeded. The mayor, as the city's chief executive and as chairman of the school committee, made a major contribution to the implementation process. As soon as the State supreme judicial court made the decision that Springfield must integrate, the mayor, who had originally been a kind of leader of the anti-integration forces, said This is the law, and Springfield must comply. 29/
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> . . . .
>
> Vice Chairman Horn: I completely agree with the conclusions. . .you have made with regard to your studies, that if desegregation is to to be successful, you need strong political leadership, you need a school board, or school committee in this State, that is committed, a school superintendent, a middle management group that is committed, along with the faculty. . . 30/
>
> Commissioner Freeman: It appears, from what you have said. . .that the commitment that was demonstrated in Springfield is lacking here in Boston. Is that correct? 31/
>
> Dr. Erna Bryant: To some degree, definitely. 32/
>
> Dr. Schuck: The commitment was total on the part of the school department of Springfield. The school committee, of course, did not sanction the plan, but once the decision had been reached in August, there was no question about the fact that the school committee would allow the plan to become effective. . .

29/ Testimony of Professor Victoria Schuck, member, Massachusetts Advisory Committee to the USCCR, p. 363.

30/ P. 368, pp. 363-64.

31/ P. 372.

32/ Testimony of Dr. Erna Ballantine Bryant, former Chairperson, Massachusetts Commission Against Discrimination and presently, member Massachusetts Advisory Committee to the USCCR, p. 372.

> The significant thing is. . .that the school committee acquiesced in the decision, and the political leadership said that there would be enforcement of the law. 33/

Other witnesses also emphasized the importance of public commitment. One witness, asked if there were anything that the Boston School Committee could do differently in Phase II, responded:

> Well, one, they should first agree publicly that they are going to enforce the law. That is the first thing. 34/

Another witness characterized the Phase I situation as a "leadership vacuum":

> . . .the biggest vacuum was one of leadership, leadership from officials, public officials, and leadership from the white community.
>
> The black community, throughout the period from last summer through now, has had to bear the burden of leading the whole city. The mayor from time to time has refused to lead and has tried to hide. The Governor, this one and the last one, from time to time has tried to say it's the mayor's problem, it's the judge's problem, it's anybody's problem, it's not my problem.
>
> And they have not provided very great support and at times they have been harmful.
>
> There has been a leadership vacuum in this city, and the effort on the part of the business community that I described earlier, while positive at the beginning, did not culminate in leadership because they were geared to follow. They were led into a following posture, and there was nobody to follow.
>
> So that's a major part of the problem, and in that kind of a context, Commissioners,

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33/ Testimony of Professor Schuck, pp. 372-73.

34/ Testimony of Percy Wilson, p. 248.

> the critical need is for law enforcement people to make it clear that the law will be enforced. 35/

Black leaders were not alone in their negative evaluation of official public leadership during Phase I. Religious leaders, while admitting their own shortcomings during Phase I, were critical of public officials who had the legal responsibility to implement the court's order:

> I'm very fearful that there will be increased tension and aggravation so long as the members of the Boston School Committee and many political leaders in the city of Boston continue to make the whole desegregation problem a football for their own political ambitions, which I think it has been in the past.
>
> One of the serious aggravations, in my judgment, of the situation here is that those who should have been most directly responsible for the integration of our schools have been throwing up obstacles in every way, and I think Judge Garrity's decision makes that extremely clear. 36/

F.3. The private institutions of Boston--its religious, corporate, educational, and social service agencies--should publicly commit themselves and the resources at their command to support Phase II school desegregation.

The abdication of effective moral leadership by private institutions during Phase I was significant. Witnesses before the Commission spoke to varying aspects of this default by private leadership:

By the religious community:

> . . .as a citizen of Boston who is very proud to be a Bostonian and a New Englander, one of the few things of which I am abysmally ashamed

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35 / Testimony of Thomas Atkins, President, NAACP, Boston chapter, pp. 967-68.

36 / Testimony of Rabbi Roland Gittelsohn, Temple Israel, Boston, p. 472.

is our record on school desegregation. 37/

By the business community:

> . . .it's very, very difficult for members of the business community to argue effectively with people who live in the city that their kids should be brought from one end of town to the other, when in fact most of them live in suburbia, and for whom this problem is something which they just simply read about. 38/

By the education establishment:

> . . .the questions of legal and moral issues, universities, of course, you know--well you know, are mixed. . .When you begin to talk about things like moral issues, like whether people should obey the law, the same question could be raised for the university that you raised, to both the businessmen and the religious leaders. 39/

By social service agencies:

> . . .we have taken a position of neutrality . . .anything we can do to assist any of the officials that have a job to do, that is fine. But we are a social service agency, we have a certain amount of energy and staff to devote, and you know, unless we were given additional staff and additional money, I don't see this as a possible solution.
>
> Counsel: But you have not, to this date, solicited additional staff or monies in relation to Phase II, other than the proposal you described, is that correct?
>
> Witness: That is correct. 40/

37/ Ibid., p. 501.

38/ Testimony of William Chouinard, Executive Vice President, Greater Boston Chamber of Commerce, p. 426.

39/ Testimony of Kenneth Haskins, Lecturer in Education, Harvard Graduate School of Education, Harvard University, Cambridge, Massachusetts, pp. 550-51.

40/ Testimony of John Gardiner, Executive Director, John F. Kennedy Family Services Center, Inc., Charlestown, p. 835. Mr. Gardiner administers an annual budget of just under $1 million, 70 percent of which comes from public tax dollars.

A member of the Massachusetts State Advisory Committee assessed media coverage:

> The front page is what people read. And that's what went across the country, and what you saw and what several million other people saw all over the world, and as a result I think that's the factor that impinged upon the actions and attitudes of people right here working to make positive change.
>
> I do feel that had there been as much of an impact by the positive situation, people would have to recognize that it can work here. We've just got to work at that. We've got to build on that process. 41/

The importance of private institutions was commented on by a member of the Commission:

> And where this moral leadership was largely silent from the business, the religious, the social service, the educational institutions . . .that kind of lack did allow for perhaps, in the community, less cooperation than there might have been. 42/

F.4. In connection with Phase II, the Citywide Coordinating Council (CCC) is an important agency for monitoring, coordination, and informing the public of school desegregation activities. Affirmative action by the CCC can help fill the school desegregation leadership vacuum existing in Boston.

The Citywide Coordinating Council, a multipurpose entity created by the Federal district court in Morgan v. Hennigan, 43/ consists of 42 members, 26 of whom are Boston residents. 44/ Four members

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41/ Testimony of Dr. Erna Ballantine Bryant, member, Massachusetts Advisory Committee to the USCCR, pp. 379-80.

42/ Commissioner Saltzman, p. 849.

43/ Morgan v. Hennigan, supra.

44/ Testimony of Arthur J. Gartland, Chairman pro tem, Citywide Coordinating Council, p. 972.

are elected from parent and student advisory councils (which are also the creation of the court) and the rest are appointed by the court. Although some CCC members do not philosophically agree with so-called "forced busing", all are committed to carrying out the court's Phase II desegregation order. [45]

The CCC has three basic functions. First, it is charged with fostering awareness of, and involvement in, the implementation of the court's order. Accordingly, it is empowered to "communicate and publicize its views to the public. . . ." [46] Second, it is defined as "*the* monitoring body for the court and may hold public meetings, conduct hearings, and inspect school facilities." [47]

Finally, as the overseer of all school desegregation activity, it is charged with coordinating such activity, particularly between Boston's schools and "universities and colleges, cultural institutions, and labor organizations. . . ." [48]

Clearly the CCC has an important role to play. It must, however, have the support of public and private organizations.

Arthur Gartland, chairman pro tem of the CCC, was emphatic at the hearing; despite the critically important role of the Council, it would not in any way assume the responsibilities of other organizations, both public and private, to exercise leadership roles in support of school desegregation:

> I don't see the role of the council as superseding any of the committees or the public functions which have already been established. . .

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[45] *Ibid.*

[46] Morgan v. Kerrigan, Civ. Action No. 72-911-G. Memorandum of Decision and Remedial Orders (June 5, 1975) p. 87.

[47] *Ibid.* (Emphasis added.)

[48] *Ibid.*, p. 87.

> . . .I certainly don't see us as taking the place of any department of the city which has a concern. 49/

Mr. Gartland also made clear that while the OCC will try mediation and conciliation among citizens who want to see the court's Phase II school desegregation order carried out:

> the council is [not] going to be the patsy for anybody, [nor will it] withhold from making those investigations and making those observations in public and to the judge which will contribute to the effectuation of the order. 50/

F.5. The Phase II school desegregation plan presents a unique opportunity to accomplish a substantial upgrading of education in the Boston public school system.

a. Colleges and universities in the Boston area are paired with local public schools.

b. Boston businesses are paired with local public schools.

c. A system of citywide magnet schools will be developed within the Boston public school system.

The unique element of Phase II, and what has been referred to as "the heart of the plan," is the involvement of Boston's institutional structure with public school education--institutions of higher education, the business institutions, labor organizations, and the arts. All of these have committed themselves to support, assist, and participate in the development of educational excellence within and among the public schools in Boston.

49/ P. 982-83.

50/ P. 984.

The court has matched 20 colleges and universities in the greater Boston area with particular high schools and with selected lower schools and special programs. It is hoped that other area academic institutions may be added in the implementation process. College and university assistance will be aimed at improving and equalizing the education offered to students, and may include a variety of approaches such as staff development and training; design of curriculum, materials and methods; planning or other necessary organizational processes; and concentration on community relations. The choice will depend upon what is needed, and how the capabilities and interests of the college or university can best serve these needs. 51 /

The court in its opinion stressed the importance of involving the institutions of higher education with Boston's public schools.

> The significance of this pairing effort is as a long-term commitment, a promise to the parents and students of Boston that these institutions, with their rich educational resources, are concerning themselves in a direct way with the quality of education in the public schools. 52 /

Twenty businesses have been paired with particular schools for the purpose of supplementing academic theory with business practicability. Boston businesses, through the vehicle of the Tri-Lateral Task Force, have been working with the public schools in Boston since June 1974. This represents a substantial commitment of the talent, resources, and experience of the Boston business community to the city's high schools, which is expected to expand through the Phase II plan and beyond. It should also be noted that labor organizations have indicated a willingness to support and assist in occupational, vocational, technical, and trade education and may, in time, be similarly paired with specific public schools. Finally, the Metropolitan Cultural Alliance (110 cultural institutions are members), which has for some time worked with the public school system to provide innovative and enriching programs, has pledged its membership to continue and expand its participation.

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51 / Morgan v. Kerrigan, Civ. Action No. 72-911-G, Memorandum of Decision and Remedial Orders (June 5, 1975) pp. 81-83.

52 / *Ibid.*, p. 84.

Although not always so labeled, magnet schools have long existed in Boston. A magnet school is, by definition, an educational institution which accomplishes two goals. First, it attracts students from a sizable geographic area, without regard for traditional school district lines. In Boston, magnet schools draw their students on a citywide basis. Second, the magnet school is developed around a specialized area of study, such as the performing arts or science, in order to provide a program of study which will attract students to that school. In Boston, the Latin schools draw students, on a citywide basis, who wish intensive academic preparation for advanced liberal arts education.

Under the Phase II school desegregation plan, 26 public schools, including all grade levels, are projected as magnet schools. Each school will have distinctive programs or features that can bring together students with common interests, of all races. In order to increase the magnetism of these schools, the court has paired colleges and universities with particular schools. Businesses have worked and will continue working with particular high schools. 53/

The possibilities for upgrading the quality of Boston's public school education, as expressed in the Phase II plan, are limited only by the amount of good will and effort Boston's leaders are willing to bring to bear on the process. In the words of the court,

> The efforts of so many people to enrich public education in such diverse and promising ways will help ease the transition of Boston's school system from a dual system to one with no "black" schools or "white" schools, but just schools. 54 /

F.6. All law enforcement agencies, State and local, must be involved in a coordinated plan to ensure public safety during Phase II implementation.

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53 / *Ibid.*, p. 44.

54 / *Ibid.*, p. 87.

It is essential that public safety planning recognize the need for a coordinated effort by both State and local agencies. Unless law enforcement efforts are coordinated in advance--i.e., numbers of personnel available for school desegregation, method of securing State assistance for local law enforcement problems, definition of role and responsibility for State agencies assisting in local law enforcement, and overall command and authority clarification--problems of public safety that arise will not be met with decisive and effective police response.

RECOMMENDATIONS

R.2. Full and effective support by public officials of school desegregation—on legal and moral grounds--is essential.

R.3. Full and effective support by the private institutions of Boston for school desegregation—on legal and moral grounds—essential.

Specific recommendations are addressed to public officials and private institutions in the text of this report.

R.4. The Citywide Coordinating Council (CCC) should take full advantage of the opportunity provided by the court order. The Citywide Coordinating Council is entitled to full support of both the private and public leadership sectors.

As has been noted in the findings section on the mayor, both Mayor White and his key aide for school desegregation, Peter Meade, have passed some leadership responsibility to the CCC. At the hearing, Mr. Meade expressed the hope that the council would fill the "vacuum" which the Federal Government left last year. [55] However, all leadership elements, public and private, should exert full efforts in support of school desegregation. They should not leave the burden with the Citywide Coordinating Council.

R.5. Boston's institutional leadership--e.g., higher education, business, labor, and the arts--should continue and expand its involvement with the school system in order to upgrade public school education in Boston.

The role of Boston's institutional leaders in Phase II and beyond is a developing one. Goals have been set and intentions have been stated. There should now be careful and innovative followthrough.

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[55] Testimony of Peter Meade, p. 95.

The magnet school concept has been greeted with much enthusiasm. Educational experts, however, caution that 3 to 5 years will be required to staff and develop a successful magnet program. [56] Efforts should, therefore, be made to provide for immediate educational needs on a short term basis, while concentrating on the design of a superior magnet school program.

The support so far given to Phase II by Boston's institutional leaders should continue; the promises of cooperation and involvement made by education, business, labor, and the arts to Boston's children must be kept.

R.6. The Boston Police Department's safety planning should establish a coordinated law enforcement effort for Phase II implementation.

The Phase II safety plan for Boston provides a valuable first step toward ensuring a well-planned and coordinated law enforcement effort. It contains a clear commitment of support from State agencies and ensures their involvement and availability from the first day of school. The plan also contains sufficient flexibility to enable increases and reductions, based on necessity, to be accomplished smoothly and efficiently.

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56 / Interview with Dr. Lila Sussman, Tufts University, by Hester Lewis, Staff Attorney, USCCR, May 2, 1975.

2. THE BOSTON MUNICIPAL GOVERNMENT

A. EXECUTIVE BRANCH

FINDINGS

F.7. Mayor White effectively delegated the city's Phase I planning responsibilities to the deputy mayor, and such planning as time permitted under Phase I was effectively carried out. Despite the much longer lead time available, preparation for Phase II implementation has not been, up to this point, characterized by the same care and thoroughness assigned to Phase I preparation.

Beginning in February 1974, several months before issuance of the Federal district court's order, then Deputy Mayor Robert Kiley began planning for Phase I implementation.[57] His jurisdiction included primarily public safety and neighborhood services.[58] One of the first things Mr. Kiley did was to request assistance from the National Dispute Settlement Center of the American Arbitration Association. The center held a day-long seminar in March for Boston nonschool city officials, and invited representatives of other cities which had recently undergone desegregation. Mayor White sat in on this seminar.[59]

One of the major Phase I planning decisions that came out of that initial seminar was to decentralize the planning process by involving representatives of city agencies in the neighborhoods.[60] Other important planning considerations which took shape at that time were: (1) keeping the media fully and currently informed during both the planning and implementation stages; (2) getting out accurate information to the public, instituting rumor control and a "sophisticated information provision mechanism"; (3) early planning for student transportation; and (4) involving parents and students in the planning process. 61/

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[57] Testimony of Robert Kiley, Executive Director, Massachusetts Bay Transit Authority (MBTA), p. 79. (Mr. Kiley resigned the office of deputy major effective May 1975, to become executive director of the Massachusetts Bay Transit Authority.)

[58] P. 78.

[59] Pp. 78-103.

[60] P. 81.

Following these meetings a task force composed of agency heads was created. Twelve neighborhood teams, to be coordinated through the existing system of neighborhood little city halls, were designated. 62/ In April and May 1974, the school department was asked to participate with the neighborhood teams. 63/

In retrospect, some deficiencies in the planning and implementation process are apparent. Decentralization caused significant variation in the performance of some activities, such as information dissemination. 64/ The managerial autonomy separating school affairs from other city agencies was an impediment to achieving total coordination and effective planning. The experience gained in Phase I should have made the city prepare more effectively for Phase II. However, the record does not point to the conclusion that this in fact has happened.

61/ Pp. 81-82.

62/ Pp. 82-83, 86. Neighborhood teams become operational in May and June 1974.

63/ Pp. 84-85. Mr. Kiley testified that only 5 to 7 teams had full participation from school personnel. No contact between city agencies and school personnel was made to plan Phase I implementation prior to April 1974, despite the State supreme judicial court ruling in December 1973, upholding the Racial Imbalance Act plan and ordering its implementation in Boston; Mr. Kiley also testified that from early 1974 on, knowledgeable persons were basing their planning on the assumption that the State plan would go into effect in fall 1974.

64/ P. 87.

The responsibility for coordinating city planning for Phase II has gradually been placed on Peter Meade, director, office of public service, in the office of the mayor. [65] Mr. Meade testified that the city has three clear responsibilities in regard to Phase II planning: public safety, school buildings, and funding--all pursuant to the Federal court order --and another area not mandated by the court: public and community information and coordination of various city agencies needed to carry out the above duties. [66]

> [In regard to public safety:] there have been several meetings as Secretary [of Education] Parks outlined between the command staff and the Boston police and State official, Secretary Barry [Charles Barry, Secretary of Public Safety]. Those meetings have been going on for several weeks now in terms of Phase II operations. They, at this time, lack specific information in terms of bus routes and public assignments, and I think those meetings will move from general policy discussions to very specific areas as soon as that information is available. 67/

> [In regard to condition of school buildings:] The public facilities department is responsible to the public facilities commission and the mayor of the city. The commission and its director have been working very closely in terms of what buildings need to be in certain kinds of conditions for the fall. 68/

65/ Testimony of Peter Meade, p. 94. Mr. Meade stated at the June hearing that he had assumed a part of Mr. Kiley's former responsibilities in addition to maintaining his (Meade's) other duties as coordinator of little city halls on an ongoing basis; at a subsequent interview on July 18, 1975, Mr. Meade indicated that he now is in full charge of the Phase II preparation responsibilities and is assisted by two other mayoral aides: Robert Schwartz (education), and Richard Kelliher (public safety liaison).

66/ Pp. 95-96.

67/ P. 95. The public safety plan was made final on July 31, 1975; the first pupil assignments were mailed on July 11, 1975.

68/ P. 95.

> [In regard to funding:] . . . the city has a responsibility, as you know well, in terms of responding to the judge's orders to provide financing for several of the orders that the judge has directed. 69/
>
> [In regard to public information and agency coordination:]
>
> Commission counsel: Will the little city hall apparatus be utilized this year for law enforcement planning, for pulling together community organizations, and so forth?
>
> Mr. Meade: Without question, it will . . .
>
> Counsel: As of this time, has it been so used?
>
> Mr. Meade: We have had preliminary discussions. What we are waiting for now is to find out clearly what role the Citywide Coordinating Council (CCC) and the neighborhood committees below that choose to play. We don't want to set up an apparatus that would be competing with the judge's order.
>
> But in terms of planning and understanding the order and being able to disseminate information on the order, in terms of cooperating with school officials, all those steps have been taken already. 70/

Mr. Meade also testified regarding these other considerations in Phase II planning:

> Chairman Flemming: Is there any plan, Mr. Meade, for the utilization of the American Arbitration Association training facilities in connection with preparation for Phase II?
>
> Mr. Meade: We haven't hardened the plans yet, but generally the positive response from last year's use indicates to us that they need to be a part of our planning and implementation in the fall. 71/

69/ P. 95. On July 17, 1975, the mayor announced a $7.5 million cut in funds requested by the school committee for Phase II desegregation; of that sum, $4.2 million was for transportation costs. Boston Globe, July 18, 1975.

70/ P. 96. In a July 18, 1975, interview, Mr. Meade indicated that the mayor's office had turned over neighborhood team coordination to the school department but that little city halls would provide fact sheets on desegregation to the public, thus sharply curtailing the role previously played by the little city halls.

71/ P. 103. As of July 18, 1975, no mention was made by Mr. Meade of American Arbitration Association involvement. Interview with Peter Meade by Paul Alexander, Assistant General Counsel, USCCR, July 18, 1975.

> Chairman Flemming: Could I ask you, are there plans for involving Mr. Jones and his office (mayor's office of human rights) in the development of the plans that are being worked out for the implementation of Phase II?
>
> Mr. Meade: As they did last year, I am sure that the office of human rights will be playing a key role. Two people from that office presently are assigned to work on this process, and they are involved in the planning very actively at this time. 72/
>
> Chairman Flemming: Is the city...in a position to exercise leadership...in terms of making recommendations to the school committee for actions which in the judgment of the city government would help to facilitate the implementation of Phase II?
>
> Mr. Meade: We have begun discussions with the superintendent-elect of the school department. I have had a few meetings with her, the mayor's had one already, and it is clear to me that the new superintendent intends to cooperate and to take suggestions under advisement that would come from the city in terms of the government, or the neighborhood process that I direct... 73/

Developments subsequent to the hearing indicate that little city hall managers will continue to be involved in the community aspects of desegregation. They will now become a part of the advisory council apparatus established under the Federal court's Citywide Coordinating Council. The manager of each little city hall will sit in, either as a regular participant or *ex officio*, on the CCC advisory council for a given neighborhood area.74/ Full or expanded utilization of this apparatus, in full swing during the summer of 1974, has not occurred in 1975.

72/ Pp. 104-05.

73/ Pp. 105-06. Mayor White, however, had not yet talked to outgoing Superintendent Leary. Meade interview, July 18, 1975.

74/ Meade interview, July 18, 1975.

F.8. Public statements by Mayor White during 1974 and 1975 have confused the public and constitute a disservice to the rule of law.

Following the Federal district court's decision in June 1974, Mayor Kevin White made a series of public pronouncements which, taken together, were ambivalent. While never supporting the constitutional mandate to desegregate Boston's public schools, the mayor did take the position that he would uphold the law. However, his several pronouncements concerning opposition to the desegregation order undercut his frequent statements on upholding the law.

The mayor himself characterized his role as "varied" and stated that he saw himself as a "catalyst," trying to bring all sides together, while occupying "no man's land." He stated emphatically that his position was not one of vacillation.[75]

Mayor White's definition of his position as "broker" among contending factions is not a defensible position for an executive to take when the main point of contention is the enforcement of the law. His definition of leadership also assumed that his responsibility under Federal court-ordered desegregation was to be balanced against his political responsibility to his various constituencies. A lawful court order, based on extensive legal precedent and upheld at every stage of appeal, should be given affirmative support by public officials sworn to uphold the Constitution.

On September 9, 1974, just before the opening of school, Mayor White appeared on educational television in Boston with a lengthy address in which he made several important points, including his "pledge" to protect children:

75/ P. 1187. The Boston Globe states that Mayor White decided in the spring of 1974 to, in the mayor's word, "broker" the situation by acting as mediator among various factions. He also made clear that he was against busing, that he had not created the State plan, that it was up to the superintendent to implement the court-ordered plan, and that he, as mayor, would provide police protection. Boston Globe, May 25, 1975, A6.

> We are all faced with the unpleasant task of implementing a court order.
>
> The city has exhausted all legal avenues of appeal at a cost in excess of a quarter of a million dollars.
>
> The order must and will be carried out. It is the law. We are a government of laws. No one or group can defy the law.
>
> I'm for integration but against forced busing. They are not mutually exclusive.
>
> Compliance with law does not require acceptance of it; tolerance does not require endorsement of law.
>
> People who would boycott schools are asked to weigh the decision carefully, but it is their decision to make. Parents should attend open houses at schools before making final decision to send or not send students to school. 76/

Unfortunately, the mayor's position on the boycott, whatever superficial reasonableness it may seem to have, strongly inferred that it was legitimate to boycott schools. It is not. Boycotting schools runs afoul of a panoply of State laws and can result in criminal prosecution. 77/

Following President Ford's October 9 press conference in Washington, Mayor White convened a press conference in Boston. The press statement distributed at the conference contained, among others, these points:

> The mayor criticized President Ford in strong terms, accusing him of undercutting the credibility of Judge Garrity's court decrees.
>
> He stated that the President's remarks encouraged resistance to the law and that Boston was being "taunted" to become another Little Rock. 78/

76/ Press release, Sept. 9, 1975, Office of the Mayor

77/ Mass. Gen. L. Ch. 76 §§ 2, 4 (Supp. 1975).

78/ Boston Globe, May 25, 1975, A16.

The mayor added that both Judge Garrity and President Ford had "abandoned their commitment to the use of Federal resources to implement a Federal court order," and added that while he would perform any orders from the court, he would not undertake for Phase II any of the "voluntary acts" he had performed during the summer and fall of 1974 in preparation for Phase I.[79] In effect, the mayor did and continued to do what he criticized others for doing: undercut the credibility of the constitutional mandate to desegregate the public schools of Boston. This pattern continued. On December 29, 1974, the following points, as summarized below, were contained in a press release by the mayor:

> Citywide busing should not be imposed "as long as widespread boycotts and repeated disruptions are still blunting success of Phase I."
>
> There must be no desperate heroics by public officials protesting at the last minute that the court order is neither final nor irrevocable.
>
> Therefore, to clarify the issue once and for all, the city was authorized to appeal the Phase I order to the U.S. Supreme Court.
>
> The city would pay fully the costs incurred by legal counsel for the school committee to bring the Supreme Court appeal.
>
> Tension feeds on doubt and uncertainty. It is important to exhaust every legal avenue of appeal to silence the "rhetoric of rebellion--only then can order be restored to classrooms." 80/

Earlier (September 9), the mayor had stated that all legal avenues were exhausted. Although he was technically incorrect in September, most legal observers gave the appeal to the Supreme Court which was announced in December little, if any, chance of success. The Supreme Court did in fact deny the appeal, in effect upholding the district court's decision. 81/

79/ Ibid.

80/ Press release, Dec. 29, 1974, Office of the Mayor.

81/ Morgan v. Hennigan, 379 F. Supp. 410 (D. Mass. 1974), aff'd sub nom. Morgan v. Kerrigan, 509 F. 2d 580 (1st Cir. 1974), cert. denied, 43 U.S.L.W. 3560 (U.S. May 12, 1975).

In a copyrighted interview in U.S. News and World Report, April 7, 1975, Mayor White stated that racial fear was a major problem in Boston. He stated that there was a "better way" than busing to achieve integrated education; that busing breaks up the cohesiveness of neighborhoods and compromises parental "prerogatives" to send children to nearby schools. He stated there was a long tradition of busing--voluntarily--in Boston, even by whites into black neighborhoods. He attributed racial fear in Boston to unfamiliarity with blacks, and said that the South was more socially mature than the North in terms of dealing with racial differences. If Boston were a sovereign state, Mayor White felt that busing would be cause for revolution, as there was 80 percent noncompliance with the law. 82/ These comments again reopened the question of the legitimacy of the Federal district court's decision without any regard for the impossibility of overturning it.

On May 11, 1975, following the issuance of the Phase II order on May 10, Mayor White criticized the court:

> By his order, Judge Garrity has virtually guaranteed a continuation of the present level of tension and hostility throughout the city. 83/

In testifying before the Commission on June 19, 1975, Mayor White maintained his ambivalent position. He stated that his responsibility had been to maintain order and public safety and to facilitate communication among various factions--to try "to hold the city together." 84/

82/ "Busing in Boston--A Beleaguered Mayor Speaks Out," Interview with Kevin H. White, U.S. News and World Report, April 7, 1975, pp. 41-42.

83/ P. 1209.

84/ P. 1172. As of June 19, 1975, the mayor testified that he had not yet received the police estimate of increased cost for Phase II implementation, pp. 1180-81. On July 17, 1975, the mayor's office announced a cut of $30 million from the school department's budget request, of which $7.5 million was earmarked for school desegregation ($4.2 million, of the $7.5 was for transportation costs). See Boston Globe, July 18, 1975.

He indicated that the issue now is quality education, and that, given Boston's boundaries, real integration (across class lines), as he sees it, is not possible. "Busing is, therefore, not the key to equal protection promised American children by the Constitution." [85] He stated that he seeks the "true path to racial equality" but does not approve of the means (busing) used to reach that goal. [86] He did not outline, however, any other means to achieve constitutionally mandated desegregation.

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[85] P. 1176.

[86] P. 1177.

F.9. Mayor White consciously decided not to involve the business community of greater Boston in the Phase I process, despite the willingness of business to be involved.

The testimony of representatives of the Boston business community indicated that the Mayor was in part responsible for their limited participation in Phase I:

> Well, I think my company and other companies last summer worked together, particularly in urging the mayor to take a leadership role, doing what we could within our own companies through house organs and the like to tell our own employees about our consideration for need for calm and peace at the time of the school opening. 87/

In response to questioning focused on why business did not assert stronger moral leadership, the executive vice president of the Greater Boston Chamber of Commerce stated:

> In our July statement last summer, we very definitely addressed the whole issue of adherence to law . . . there were meetings by elements of the community—religious, education, business, et cetera, and I think [we] were prepared to make further statements in support of what you're talking about, but I think the judgment of the mayor and others at that time was that these statements had frankly an inflammatory effect and that there was, I think, a climate of opinion at that point in time which said, "Let's try to keep this situation cool. The time for statements is past. We're in the middle of this thing. Let's just try to maintain order." 88/

The president of the Boston NAACP, Thomas Atkins, assessed the business community's involvement in Phase I in his testimony before the Commission:

87/ Testimony of Robert Lamphere, Vice President, John Hancock Insurance Company, Boston, and Co-chairman, Tri-Lateral Council for Quality Education, Inc., p. 410.

88/ Testimony of William F. Chouinard, pp. 434-35. The statement referred to was issued in July 1974 by the Chamber of Commerce endorsing safe and orderly implementation of the Federal court order.

> I would say that the business community early last summer exhibited a willingness to play a helpful role . . .
>
> But it was also clear--and they made it clear --that they saw their role as a supportive role, not a leadership role, and that they would play a role supportive to that of the city, principally, and the mayor, and they focused their attention on the mayor.
>
> The absence of response from the mayor to provide leadership resulted in a substantial deterioration of the business community's ability or willingness, as the case may be, to play a very helpful role. 89/

Mayor White offered this explanation of his failure to solicit business involvement:

> Vice Chairman Horn: . . . Is [it] your feeling that the business community could have been much more active in Phase I in working together to carry out the law . . .? Did they do enough?
>
> Mayor White: My hesitancy is simply, one, I don't think they were asked to participate as fully as they might have wanted to, but I don't know their response, what it would have been, because I didn't include the business community in my preparations, by and large, and I would like to tell you why, Mr. Chairman, if I might.
>
> And that is, even this morning, I feel very strongly that much of this problem has to be solved from within the neighborhoods and from the people affected by it and the business interests in the neighborhood, obviously at the local level, are the local merchants, but I thought your question was addressing itself, by and large, to the downtown business community, and I am not sure that their presence would be significant.
>
> It might have been helpful. It might have been an omission on my part. I can't make a judgment, because I didn't ask them. I kept them apprised of the situation. I asked whether they would be ready to give

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89/ Pp. 952-53.

> supplemental funding if needed on a given occasion and they responded almost unanimously affirmative, that is, if a given program had to be funded, or whether someone could help out by making, oh, something available to us.
>
> But by and large, as a corporate group, I did not solicit their aid, and I'm not--I don't know whether that was an error or not. My own conviction of the moment is that this has to be solved by those of us who live in this city on a daily basis. 90/

Although the mayor stated that his "conviction of the moment" was not to involve business, he also indicated that he would seek their involvement in the Phase II planning process:

> Vice Chairman Horn: . . . I wonder with Phase II, do you have any plans to call together the leadership, though, of the major businesses in the city of Boston regardless of where they live, the leadership of the major labor organizations in the city of Boston. . . in an attempt to secure the mobilization of whatever moral force and authority they might have to see that the law is carried out?
>
> Mayor White: Yes. The answer is "yes" to that question. I--the key word you brought [is] the question [of] "moral force." I believe that the leadership, you mentioned the unions, are the business community, what constitutes with a broad stroke of a brush the opinion molders, are hopefully going to meet with the Citywide Coordinating Council (CCC) and its membership in Phase II and through a process of either pairing off or in a process of making pronouncements that are helpful, that I'm going to try and facilitate that, in any way the CCC would like me to and Mr. [Arthur] Gartland [CCC chairman] has me available for those purposes. 91/

F.10. The mayor should be commended for his personal Phase I public education effort that consisted largely of a series of "coffees" in the homes of persons opposed to court-ordered transportation of pupils.

90/ Pp. 1199-1201. The mayor also indicated that he did not involve business and other elements of civic leadership because he did not want to "bypass" existing political institutions of Boston by creating new agencies merely for dialogue. Pp. 1223-24.

91/ Pp. 1201.

In testimony before the Commission, Mayor White stated that his second major Phase I responsibility, next to public safety, was "to facilitate cooperation and communication among all factions of controversy and all parties to Boston's desegregation process."[92] To that end he met with many officials and business and community leaders, and he went to the people directly:

> The reason that I went into the neighborhoods back in the spring...I tried to target the areas concerned on a basis of education without the media, without the press. I felt that if I came with them my motives would have been suspect. And so that there are at least 300 antibusing people, because I went to the homes of people who by and large were acknowledged as antibusing leaders, I tried to. And they, I must say, gave me the courtesy and the hospitality and the time in which they listened. One had me back twice, not that I converted or convinced, but allowed me the opportunity. That was long and arduous and it was not public. 93/

In addition to the coffees, the mayor personally appeared on television for 30 minutes just prior to the opening of school, appealing for calm and decency and pledging the safety of children and the prosecution of those inclined to perpetrate violence. 94/

Mayor White's personal meetings and appearances were only part of a more general public information strategy developed by his administration for Phase I. Involved in this strategy as well was a program to keep the media fully and currently informed and what might be termed a "city hall information program" which featured rumor control, centralized information center services at City Hall, and dissemination of fact sheets on neigh-

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92/ P. 1172.

93/ P. 1203. The mayor testified that the first "phase" of coffees was concentrated in Hyde Park; subsequent coffees were held in West Roxbury, Dorchester, South Boston, and in the black community, p. 1183.

94/ Press release, Sept. 9, 1974, Office of the Mayor.

borhood school situations through the network of little city halls. 95/

The attempts of the City Hall media program to affect news coverage aroused criticism from all sides of the controversy. The president of the Boston NAACP stated:

> I think the media was aware of the impact they could have on fanning flames of confusion or perhaps even of violence, and I think that the media made a sincere effort to avoid that. I feel personally that the media stepped out of its role, and because of that, it did not perform well.
>
> ....I remember and I compare what I saw here with what I saw in 1964 in Mississippi, when I spent the summer there.
>
> There, the local media by agreement would not cover anything that they considered to be unfavorable to Jackson or to the State of Mississippi. The national media did what they did everywhere else.
>
> So there was this great contrast between the local and national media...I saw that kind of contrast last year in Boston. The motivation was different, but the effect was the same. 96/

The operation of the City Hall information service was seen by others as a positive value while it existed:

95/ Testimony of Robert Kiley, former deputy mayor of Boston, pp. 86-88, 91-93, 118-19.

96/ Testimony of Thomas Atkins, pp. 960-62.
Other sources generally gave local media coverage high marks compared to national coverage in Boston. The general manager of CBS-affiliate WEEI-AM (radio) in Boston told Commission staff prior to the hearing that he had attended meetings with the mayor to discuss strategy for Phase I, but there was no collusion to suppress news by the media, despite the mayor's "wishes to present only positive aspects and to keep certain news off the record." Interview with Gene Lowthery, General Manager, WEET-AM, Apr. 22, 1975. The executive editor of the Boston Globe told Commission staff prior to the hearing that he felt the Boston Community Media Council's efforts to prepare in advance for Phase I coverage had been misinterpreted by the public and resulted in the media's being accused of engaging in a "conspiracy of silence." Interview with Robert Healy, executive editor of the Boston Globe, Apr. 10, 1975.

> The city's information center, which was established at City Hall for the opening of school, did serve as an important source of information for rumor control for parents and teachers and students and community groups. Additional centers were established at Freedom House, Model Cities (Administration), the Citywide Education Coalition, and at other agencies. 97/

The director of the Citywide Educa[illegible] Coalition (CWEC), a broadly-based educational reform group, indicated that: (1) Some central, authoritative information service should have been open much earlier in the year, as the CWEC began receiving up to 500 phone inquiries a day from concerned parents following the final order of the State supreme judicial court in December 1973, to proceed with implementation of the State Racial Imbalance Act plan for Boston; and (2) after defeat of a school reorganization proposal referendum November 5, 1974, the city withdrew city personnel from the City Hall information center and turned over its operation to school department employees. Thereafter, she asserts, people who made inquiries of the City Hall center were given "controlled information." In effect, the City Hall information center was operational and providing nondirective information for about 2 months of the 1974-75 school year, according to the CWEC director. 98/

F. 11. As yet the mayor has not undertaken, in preparation for Phase II, a public education and information program comparable to his Phase I effort.

Mayor White testified that he recognizes his public information and education responsibilities for Phase II, but expects the Citywide Coordinating Council to take the initiative:

> Commission counsel: In your other areas of responsibility, what function can the mayor's office... through the little city halls or any other resources available...have in terms of public education, in terms of what the Phase II order is and what are the responsi-

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97/ Dr. Erna Ballantine Bryant, member, Massachusetts Advisory Committee to the USCCR, and former chairperson, Massachusetts Commission Against Discrimination, p. 357.

98/ Interview with Mary Ellen Smith, Director, Citywide Education Coalition by Mardon Walker, Staff Attorney, USCCR, and Eliot H. Stanley, Equal Opportunity Specialist, USCCR, Apr. 2, 1975.

> bilities of individual departments, and what are the expectations that parents can have? What is the mayor's office role in this setting?
>
> Mayor White: Well, in degrees, not considerably different from last fall. I think the first thing is obviously to make whatever resources, financial, that is, money, available...I've made it clear to the departments that will work supplementally with the CCC that money will not be an inhibiting factor to their performance.
>
> Secondly, in the area of public education, there is the efforts of the CCC itself on meeting--I'm meeting with Mr. [Arthur] Gartland [CCC chairman] shortly. I have not, I must confess, given the time that I gave last year on the coffee hours, which was as extensive as I've done in my public life. Nor to be overly dramatic, it's just that there are other factors... 99/
>
> Commission counsel: /Regarding public misunderstanding of the desegregation process/ ... is there a fact sheet, or a public information service that the little city halls . . . could perform in this area?
>
> Mayor White: This year we can serve as distribution points and effective distribution points with the CCC, but it requires their input in decisionmaking and I really don't believe that has occurred sufficiently yet and I would hope that we can expedite that communication between them and my little city halls, or they themselves.100/

Mayor White incorrectly interprets the role of the CCC; the existence of the council does not diminish his responsibilities one iota. In regard to making greater use of television to reach an audience not accessible through the personalized coffees, the mayor had this reaction:

> Vice Chairman Horn: Mayor White, you mentioned during your remarks the lack of understanding and knowledge,

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99/ Pp. 1182-83. The mayor stated also that since December 1974 he has conducted 38 coffees in neighborhoods to be impacted under Phase II, p. 1184. As of July 18, 1975, the CCC had not yet submitted its budgetary request to the mayor's office.

100/ P. 1185.

> really, about how some of the fundamental processes work including even the appointment of Federal judges. Have you contemplated the possibility of going to the people of Boston through the television media and having a fireside chat, if you will, about the complexities involved and about the assurance of the city government to see that the laws of both the city, State, and Nation are carried out?
>
> Mayor White: ....Just prior to the opening of schools, I went on television as thoughtfully as I could to try and say what was at stake and why I hoped, despite differences of opinion, we would comply in an orderly fashion, stating my own views, but fighting very definitely for an orderly implementation of the process.
>
> I wasn't dissuaded from doing it again, but obviously my words didn't convert or captivate my audience based on the events that occurred in the first 3 months.
>
> One thing that was done--one thing that shouldn't be done, I think, at this stage is to lecture. And the process of education in the turbulence and the emotionally charged atmosphere--and now add a campaign to the ingredient--makes it very, very difficult to carry on a dialogue, whether it's on a personal basis or my addressing an audience via the television for 30 minutes.
>
> I do try and drive home simple messages, simple truths are inescapable for this city, and if I think my words can have some temporizing effect, then I won't stint in making an effort in the fall to speak again, but I don't want to grandstand it either. 101/

No mention was made by city officials, in testimony before the Commission, of any special media program for Phase II.

101/ Pp. 1203-04.

Regarding the overall public information approach to be taken by the office of the mayor in Phase II, the Commission heard testimony from Peter Meade, director, office of public service and Phase II coordinator for the mayor:

> Chairman Flemming: I'd like to go back to the point that counsel has raised a number of times, and that is, are there at least tentative plans being developed for the dissemination of information relative to the nature of the court order, and relative to the disposition that has been made of the original order at the appellate level, both the circuit court of appeals and the Supreme Court. There I am referring to the basic order holding the school committee in violation of the Constitution--and then, or at least tentative plans of taking the Phase II order and breaking it down and developing materials that will make it possible for people to really become acquainted with it?
>
> Mr. Meade: The first point is in terms of the court order and the adjudication through the appellate process. That needs absolutely to be part of any information package that is disseminated in the city, and that is understood by us.
>
> The process is not yet clear depending on the public information [sub] committee of the Citywide Coordinating Council. We have points that we think need to be included, and we will be working closely with that group, I believe.
>
> Secondly, in terms of information packages and specifically relating to education, the school department published a brochure on pupil assignment that in terms of the number of parents who responded I think indicates that it was a document well put together in terms of people understanding what the educational process will be next year in the city. 102/

102/ Pp. 103-04. On July 18, 1975, Mr. Meade reported that he had yet to meet with the chairperson of the public information subcommittee of the CCC, and was not certain he should have to initiate such a meeting. Also, by July 18, an information sheet had been prepared for distribution through the little city halls, although a copy was not then available for Commission examination. Meade interview, supra. Mr. Robert Kiley, former deputy mayor who directed Phase I operations for the mayor, testified that he considered it "absolutely necessary" to disseminate information to the public regarding the terms of the court order, obligations incumbent on the city to comply with the order, and the finality of the order, pp. 96-97.

The apparent shift of public information and education responsibility away from the mayor's office is of concern. (The Citywide Coordinating Council was established to monitor enforcement of the Phase II order, not to assume all administrative tasks required to implement that order.) The mayor's office, which has an extensive central staff and a network of little city halls throughout the many neighborhoods of Boston, and which developed valuable experience in disseminating information during Phase I, now appears to have limited its informational activities.

F. 12. The neighborhood safety team concept, as developed under Phase I and implemented through the mayor's network of little city halls, was and is a valid coordinating mechanism for neighborhood-level school desegregation operations.

(a) However, reliance on the decentralized neighborhood team approach for desegregation planning resulted in varied effectiveness in different school districts under Phase I and general preoccupation on logistics alone.

(b) The neighborhood teams were limited in their public impact because parents were not involved in their work.

(c) The role of School Involvement Project (SIP) biracial teams under the youth activities commission during Phase I was in most instances constructive and useful.

Former Deputy Mayor Robert Kiley testified before the Commission that a decentralized planning process, involving neighborhood representatives of city agencies, was one of the first Phase I policy decisions.[103] This decision was made following a meeting with representatives of other cities which have undergone desegregation programs.[104] Kiley described the role neighborhood teams were to play:

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[103] P. 81.

[104] The meeting was held in March 1974 under the auspices of the National Dispute Settlement Center of the American Arbitration Association. Ibid., p. 79.

> Each team would of course deal with the peculiar characteristics of that neighborhood, but by and large they were looking into such questions as getting out accurate information to the people in that neighborhood about their own school situations; dealing with the fine tuning of transportation planning; dealing with the question of the deployment of uniform personnel, fire and police; trying to take into account getting close to the physical situations in schools, looking at issues like fire alarm systems, the adequacy of security in and around buildings—that is, physical security—looking at the general condition of school buildings. 105/

Mr. Kiley stated further that, while different neighborhoods varied, the coordinator of the neighborhood teams was generally the little city hall manager in that area. Overall coordination was provided by the deputy director of the mayor's office of public service, which has ongoing responsibility for running the network of little city halls throughout Boston. 106/

The neighborhood teams were given little central direction concerning information dissemination by City Hall:

> Mr. Kiley: The city administration did not provide, as I recall--I could be corrected on this—did not provide, for instance, an information kit on the SJC [Massachusetts Supreme Judicial Court] decision...
>
> Commission counsel: Well, some of the questions that perhaps could be anticipated in the spring of 1974 from community persons could have been something to the effect of: Will this plan actually go into effect; is there a constitutional right to send your child to a neighborhood school? Those types of questions. Did the city go through and anticipate those and have a standardized response?

105/ P. 82. Twelve teams were created: school personnel participated in about half of them according to Kiley. Ibid., p. 85. The neighborhood teams became operational in late May-early June 1974. P. 86.

106/ P. 86. The little city halls program of Boston, an administrative innovation of Mayor Kevin White, has been highly acclaimed among city management circles in the United States and abroad. See "Factsheet on Little City Halls," Office of Public Service, Office of the Mayor of Boston, March 1975.

> Mr. Kiley: The standardized response, without question, was that the law was the law, and our position throughout the year was that as soon as Judge Garrity acts, and there wasn't much doubt about what his decision would be, that would be it...
>
> Commission counsel: Were there any affirmative information dissemination operations in this area other than responding to questions from people...?
>
> Mr. Kiley: As I say, there were brochures and information packages prepared at the neighborhood level. There was not, to my recollection--although the school department may have prepared information during the summer--to my recollection there was not central provision or preparation of brochures, documents, et cetera. There was, however, considerable activity at the neighborhood levels.
>
> Commission counsel: But would that be determined in each individual neighborhood as to what the message to be conveyed or the information packet would contain?
>
> Mr. Kiley: The neighborhood teams--since we did consciously go the decentralized route--the neighborhood teams would have made these decisions. 107/

In general, the neighborhood teams were considered effective in bringing together in one place the local officials--both municipal and school--whose cooperation was essential for Phase I implementation:

> While the role of City Hall can be perceived as both a positive and a negative factor, there were... aspects of the city's activities that do warrant your attention... the neighborhood teams established by City Hall and

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107/ Pp. 91-93. One indication of the degree of laissez-faire attitude toward coordination was that the manager of the little city hall in Charlestown was permitted by the office of public service to sign in her official capacity published protests against Phase II implementation in that community.

> composed of city schools and neighborhood sources, were important positive factors. 108/

At the neighborhood level, an area superintendent of schools in Roslindale spoke highly of the team's work:

> . . .in conjunction with the local police department and the fire department chiefs and various personnel, and with Paul Roche [Roslindale little city hall manager] and other members of little city hall, we had a series of sessions . . . And through the medium of Paul and others and Charlie Titus [associate director, Lena Park Community Development Center], we had the awareness of a marvelous network of supportive services. And this, I think, was one of the plusses of the preplanning period. 109/

The Roslindale little city hall manager testified, however, that the principal social service agency for black youth in the Phase I district to be served by Roslindale High School was omitted from the Roslindale neighborhood team:

> Commission counsel: Was the Lena Park group part of your planning team?
>
> Mr. Paul Roche: I don't know. I don't think so. No, they weren't. 110/

An analogous organization for white youth, however, was included. 111/

The neighborhood teams' effectiveness was limited by their heavy concentration on logistical considerations. 112/

108/ Statement of the Massachusetts State Advisory Committee to the U.S. Commission on Civil Rights with respect to the Bos[illegible]chool System, presented by Dr. Erna Ballantine Bryant, member, p. 357.

109/ Testimony of Helen Moran, former headmaster, Roslindale High School, pp. 628-29.

110/ P. 641.

111/ *Ibid.*

112/ Testimony of Robert Kiley, pp. 82-85.

In placing emphasis on decentralization of "professional" planning and operational decisions, the neighborhood teams tended to omit parents and other lay members of the public from their deliberations.[113] Former Deputy Mayor Kiley addressed this problem:

> ...there were efforts with varying success in all neighborhoods to get citizens involved—everyone from political leadership to heads of voluntary agencies, through parents and concerned citizens. In some neighborhoods there were successes, people got vigorously involved; in other neighborhoods, there was a lack of success... .[114]

The potential value of parental participation in the school desegregation process was underscored in different ways:

> Gloria Joyner: We have brought parents together at a level where they were able to discuss things rationally. And there has been very little of this going on through this whole effort. Our main concern was to try to develop some level of peace between the communities, black and white, who would be exchanging students. [115]

A white parent in South Boston indicated that his participation made him cognizant of what was going on in schools, information which he formerly did not have:

> Commission counsel: Had you been back and forth to the high school between the time you were graduated and this past year?
>
> James O'Sullivan: No. I haven't been back until this trouble started this year...when I graduated in 1940, South Boston High School was a beautiful high school. You could eat off the floors. They had French doors going into the assembly hall, beautiful assembly hall. The walls were always freshly painted and the place was kept clean, and it was just a good place to go to school... but when I went back in October and saw the appalling condition of that school, I could have cried. The filth, the paint peeling off the walls. The girls' gym hadn't been heated in 3 years... the doors on the ladies' room for girl students hadn't had doors on them for 2 years.

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[113] Interview with Peter Meade, supra.

[114] P. 88.

[115] Testimony of Gloria Joyner, Chairperson, Community Task Force on Education, Boston, pp. 226-27.

> In the 1930's Boston had the--had the beautiful position if you will, of having one of the best school systems in the country. Today it has one of the worst school systems in the country. I want this all turned around. I want a dollar for a dollar. I want my tax dollars to go to the schools.116/

Peter Meade, director of the mayor's office of public service, testified that parental participation, or the absence of it, was ultimately crucial to the success or failure of particular neighborhood teams:

> I would suggest that participation [by parents] made a significant difference....the West Roxbury team, for example, participated...with one of the public relations firms that Mr. Kiley talked about. They developed a brochure about English High School, where a great number of students would be going, and there was an opportunity to deal actively with parents. That interface was important. It began a process that allowed communications to go on and allowed parents to understand what was happening.
>
> In other neighborhoods where for one reason or another parents chose not to participate, the sense of. . .the court order that I discussed with the Chairman, the sense of where children would be going to school and the control of rumors, those processes didn't exist, and it was almost impossible to communicate information at all. And I think that made a significant difference in the ability of the teams to function. 117/

Closely tied to the neighborhood teams during Phase I were the operations of the city's youth activities commission (YAC). What had started in 1958 as a "juvenile diversion agency" to provide alternatives for youthful delinquents and offenders, became in 1974 an important part of the mayor's Phase I implementation program. 118/ Working out of neighborhood offices called youth resource centers and coordinated with other municipal agencies through the little city hall neighborhood teams, the YAC workers were placed in the schools to act as buffers and liaison between students, school personnel, and police. 119/

116/ Pp. 691, 706-07.

117/ Pp. 112-13.

118/ Interview with Paul McCaffery, Director, Youth Activities Commission, City of Boston, by Paul Alexander, Assistant General Counsel, and Eugene Bogan, Northeast Regional Counsel, USCCR, Apr. 24, 1975.

119/ Ibid.

Based on close working relations already established with neighborhood youth "on the streets," the YAC workers were able to identify students who could play leadership roles, serve as watchdogs over potentially explosive situations, and be advocates for youth involved in disciplinary problems in the school.[120] During the summer of 1974, YAC workers attempted to develop biracial activities, notably in South Boston, with only limited success. [121]

As school opened, biracial YAC teams, usually of two persons, were situated in the schools most affected by Phase I. Agreements made in advance to use the teams (which were called "SIP teams" for "School Involvement Project") took many weeks to negotiate with school headmasters and principals, who initially viewed the teams as possible "spies" for the mayor.[122] Also, despite the fact that YAC workers sat side by side with police units in the neighborhood team planning meetings, the director stated that the safety plan developed by the police department was never released to the youth activities commission prior to opening of school. [123]

The Commission heard little direct criticism of the role or conduct of the SIP teams during Phase I. In fact, members of the Commission's Massachusetts Advisory Committee commended the youth activities commission and described its work as one of the "positive factors."[124] However, some black leaders felt that the small biracial SIP teams could not respond adequately to the many crises affecting minority children once school began.[125] Black leaders successfully negotiated with school officials for an increase in minority school monitors, arguing that unless more monitors and aides were used it would be difficult to assure black parents of the safety of their children. 126/ Also, based on Denver, Colorado's desegregation process (with which they were familiar), black leaders proposed to the Boston School Committee that trained civilians, combining social work skills with police authority, be used in the schools. That proposal was never acted upon. 127/

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[120] McCaffery interview, Apr. 24, 1975.

[121] *Ibid.*

[122] *Ibid.*

[123] *Ibid.*

[124] Testimony of Dr. Erna Ballantine Bryant, p. 357.

[125] Interview with Percy Wilson, by Mardon Walker and Eliot Stanley, USCCR, Apr. 10, 1975.

Subsequent to the Commission's June hearing, Peter Meade, director of the office of public service and Phase II coordinator for the mayor, stated that none of the neighborhood teams, with the exception of Charlestown, had been reactivated for Phase II. 128/ Further, Mr. Meade stated that the mayor's office intended to turn responsibility for reactivation of neighborhood teams over to the Boston School Department sometime this summer. 129/ In Charlestown, the manager of the little city hall indicated that the neighborhood team would have its first meeting the last week in June, and that it could not have been reconvened sooner due to the little city hall's preoccupation with planning Bunker Hill Day festivities prior to June 17. 130/

Mr. Meade stated that the biracial SIP teams would be used again for Phase II, and that, for maximum effectiveness, YAC will define its activities around the new Phase II community school district lines. 131/

126/ Ibid.

127/ Ibid.

128/ Meade interview, July 18, 1975.

129/ Ibid.

130/ Interview with Roberta Delaney, manager, Charlestown Little City Hall, May 27, 1975. Ms. Delaney stated that prior to issuance of the Phase II order on May 10 it would have been impossible to plan meaningfully; from May 10 until late June it was impossible due to preparations for Bunker Hill Day.

131/ Meade interview, July 18, 1975.

RECOMMENDATIONS

R.7. The mayor should, with the cooperation of the Boston news media, immediately undertake a public education and informational program prior to the opening of school, which would explain fully the background of the school desegregation order and advise the public that peaceful and lawful implementation must occur.

The impact of Phase II desegregation, unlike Phase I, will be city-wide; the time has passed in which the mayor could hope to lead his city through its crisis by visiting people in their homes. Instead, the mayor should undertake a series of broadcast appearances designed to reach a maximum number of people in the time remaining before school opens. The mass media should cooperate in this effort; so should other officials responsible to the mayor as well as the superintendent-designate of schools.

R.8. The public service office should immediately reconvene the neighborhood teams and provide centralized planning and guidance in order to assure that the teams provide, in addition to logistical coordination, effective public information activity in each neighborhood.

The effectiveness of neighborhood teams during Phase I in large measure stemmed from their coordination by a single unit of city government, the little city hall, capable of bringing together the panoply of municipal and school services necessary for implementation. Through this process the city gained invaluable experience, from both successes and failures, that is needed now. The decision of the director of public service to transfer neighborhood team coordination to area or community district school superintendents--several of whom are newly appointed this summer--is unsound. Further, public service office guidance and monitoring of information dissemination by the neighborhood teams is essential to avoid confusion.

R.9. The public service office should encourage the participation of parents and students in the neighborhood teams during Phase II, and should coordinate this function with the biracial and advisory councils already in existence.

Officials of city government as well as community leaders agreed that the principal weakness in the neighborhood team concept during Phase I was the omission of parents and community residents from the planning and decisionmaking process. The involvement of not only parents, but also students, whom many adults considered the only true positive leadership throughout Phase I, is essential. Such involvement should be structured; it should not be left to chance or whim. It can best be done in conjunction with the biracial and advisory councils created under the Phase II order. Initiative to make such arrangements should be taken by the public service office.

R.10. Immediate steps should be taken by the youth activities commission to reactivate school involvement project (SIP) teams and assign them to high and middle schools for Phase II.

The teams should be expanded, particularly in high schools, based on last year's experience. In neighborhoods which will receive large numbers of white or black pupils for the first time under Phase II, biracial teams should be at work prior to the opening of school.

B. THE BOSTON SCHOOL COMMITTEE

FINDINGS

F. 13. The Boston School Committee opposed voluntary school desegregation in Boston from 1965 forward, and treated the court-ordered Phase I school desegregation plan as an administrative problem for which the school committee had only perfunctory responsibility. The committee has refused to take the affirmative steps necessary to desegregate Boston's public schools successfully.

(a) Systemwide review. The school committee did not initiate any steps to change curriculum or teaching methods in light of the onset of school desegregation and no review of the educational delivery system was undertaken.

(b) Involvement of all parties. No action was taken by the school committee to involve all parts of the community in the school desegregation process.

(c) Dissemination of information. The Boston School Committee took no direct role in making information available to the public about the Phase I plan, delegating this task to the Boston School Department.

(d) Affirmative leadership. The Boston School Committee provided no affirmative leadership to implement Phase I of the court order. Conversely, a majority of the school committee made clear, publicly and often, that it disagreed with and disapproved of the Phase I desegregation order.

(e) Communication among all parties. The Boston School Committee established no mechanism to ensure that all parties were regularly informed on what steps were being taken to implement the Phase I school desegregation plan.

(f) Coordination among all parties. The Boston School Committee took no steps to ensure that Phase I implementation efforts would be successfully coordinated at every level.

(g) Training. The Boston School Committee made no policy decision on the need for, or the provision of, desegregation training during Phase I.

(h) *Student attendance. The Boston School Committee made no effort to keep Boston's public school students in school.*

(1) *The school committee neither encouraged the enforcement of existing Massachusetts truancy laws nor devised other, positive methods of maintaining student attendance levels.*

(2) *The school committee has taken no steps to investigate either the overall increase in student suspensions in Boston's public schools, or the disproportionate increase in the suspension rate for black students compared to that of white students.*

(i) *Funding. The Boston School Committee expended funds only in accordance with its predetermined budget until it was ordered by the Federal district court in August 1974 to meet the costs of desegregation; payment of overtime to school department personnel for summer work was not approved until the court ordered the school committee to meet such desegregation costs.*

On June 21, 1974, the Federal district court for Massachusetts issued an opinion holding the Boston School Committee and superintendent of schools responsible for the purposeful segregation of Boston's public schools in direct contravention of the U.S. Constitution.132/ The court, in issuing its June 5, 1975, memorandum of decision, summarized the basis for its original finding of unconstitutional segregation in Boston's public schools.

> The finding was based on a history of school committee actions and inactions spanning a decade ...which intentionally brought about and maintained a dual school system in Boston ... Added to the background of this case were efforts by the school committee beginning in 1965 to evade the effects of the Racial Imbalance Act passed by the Massachusetts legislature. 133/

132/ Morgan v. Hennigan, 379 F. Supp. 410 (D. Mass. 1974), *aff'd sub nom.* Morgan v. Kerrigan, 509 F. 2d 580 (1st Cir. 1974), *cert. denied,* 43 U.S.L.W. 3560 (U.S. May 12, 1975).

133/ Morgan v. Kerrigan, Civ. Action No. 72-911-G, Memorandum of Decision and Remedial Orders (June 5, 1975) p. 5, 6.

The Boston School Committee has not been, and is not now, in favor of school desegregation in Boston. Faced with a court order to implement the limited school desegregation plan formulated by the Massacusetts Board of Education (Phase I) for the 1974-75 academic year, and to design a citywide desegregation plan (Phase II) for use in the 1975-76 academic year, the Boston School Committee made clear its position to follow the letter but not the intent of the court order. Threatened with contempt for refusing to submit a draft Phase II plan to the court in December 1974, the three school committee members who voted against submission of that plan were required by the court to respond to questions concerning their willingness to take affirmative steps to decrease racial tensions and peacefully implement Phase I. The response of the then chairman, John Kerrigan, was described by the court as typical of the three members:

> Q. What affirmative steps, if any, will you take to promote the peaceful implementation of the State court plan currently in effect?
>
> A. I will continue to obey lawful orders of the court, but I will take no initiative or affirmative action to advocate or supplement this plan which in conscience and principle I oppose based on my belief that the plan increases racial hatred in Boston... [134]

In response to a second question concerning his willingness to implement Phase II, Mr. Kerrigan said he would obey the court's orders, but could not give a citywide plan any affirmative support unless it reduced racial hatred in Boston. [135] Since the goal of both Phase I and Phase II is to desegregate Boston's schools, it seems clear that at least three members of the Boston School Committee are unwilling to support the orders of the court.

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[134] *Ibid.*, p. A-1.

[135] *Ibid.*, p. A-2.

Consistent with its posture of taking no initiative beyond obedience to the court's orders in the administration of school desegregation in Boston, the school committee played the role of reactor, rather than actor, to the needs of the school system. The absence of supportive leadership from the school committee was ongoing. Other desegregating school districts have utilized the retooling process that necessarily accompanies school desegregation as an opportunity to assess and improve the content and operation of their educational delivery systems.[136] In Boston that opportunity was either missed or ignored by the school committee. School desegration was superimposed on Boston's school system with little administrative or substantive change in the underlying educational structure. Not even the curriculum offered in the Boston schools reflected the existence of desegregation; no course was offered to provide either a background to or an understanding of school desegregation.[137]

Accurate and complete information concerning the desegregation process and how Phase I would affect the city's residents was substantially lacking in Boston. The school committee did not view itself as having an affirmative duty to inform the public about desegregation planning. What little information was available could be obtained by calling the Boston School Department's official information center, which operated first out of City Hall and later out of the school department building in downtown Boston. The center gained little public confidence, particularly since it had a reputation for glossing over any trouble spots and was known to the Boston populace as the "Hunky-Dory Center." [138]

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[136] See generally, School Desegregation in Ten Communities, supra.

[137] Testimony of William J. Leary, Superintendent of the Boston Public Schools, p. 130.

[138] Interview with John Doherty, President, Boston Teachers Union, by Hester Lewis, Staff Attorney, USCCR, Apr. 10, 1975.

Not directly ordered by the court to do so, the Boston School Committee took no action to ensure that a mechanism was established for the continuous and regular flow of information among the participants in Boston's school desegregation process. School desegregation, particularly in a major urban center such as Boston, is a complicated task requiring the full-time attention of at least one individual whose sole responsibility is to coordinate the whole process. By designating the superintendent of schools, contrary to his own recommendation, as the actual operations coordinator to implement Phase I, the Boston School Committee made abundantly clear its lack of support for desegregation in Boston. The superintendency of Boston's public schools is, by any definition, a full-time job; to superimpose the duties of implementation coordinator on those of the superintendent was to guarantee that desegregation would receive less than the full-time attention necessary to ensure its success. Neither did the school committee initiate any policy on the provision of training for school desegregation. The training that did take place was funded through the Emergency School Aid Act at the initiative of the Boston School Department staff. 139/

The chairman of the Boston School Committee has estimated that 82,000 students were officially enrolled in Boston's public schools during the Phase I desegregation process. 140/ Student attendance figures were reported daily to the Boston School Department's information center; the highest attendance figure was 64,138, the lowest was 41,802. 141/ The disparity between enrollment and attendance was greater than in previous years.

Children are required by Massachusetts law to attend school for a specified number of days each year. The school committee in each town is

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139/ Interview with Ann M. Foley, Director, Crisis Prevention and Intervention Department, Boston School Department, by Hester Lewis, Apr. 11, 1975.

140/ Testimony of John McDonough, p. 1073.

141/ Boston School Department information center, daily attendance reports.

responsible, by law, for enforcing compulsory school attendance,[142] and inducing the absence of a child from school is a criminal offense.[143] The school committee, therefore, not only has a duty to enforce the student attendance laws, but an obligation to encourage school attendance. Boston has 36 attendance supervisors, none of whom is black and only one of whom is of Spanish-speaking background.[144] No effort was made by the Boston School Committee to improve enforcement of student attendance, whether by providing for more staff, more staff training, or holding staff accountable. Chairman McDonough commented on school attendance:

> I just want to say that I, for one, am not going to be in a position of forcing children into schools when their parents or themselves, they believe they are in danger. I think there is a safety factor. Until that is cleared up, I am not going to be in a position of forcing any child into what he considers--he or his parents considers--a dangerous situation. [145]

The Vice Chairman of the Commission spoke to the school committee's responsibility for school safety:

> ... it seems to me you as a school committee have a positive and affirmative duty to assure that the schools of this city are safe and you can do that by keeping the parents from throwing bricks at buses when black children are on them. ... I think the school committee has an affirmative, positive role to assure that the public safety and peace is preserved. [146]

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[142] Mass. Gen. L. Ch. 76 § 1.

[143] Mass. Gen. L. Ch. 76 § 4.

[144] Testimony of Marion Fahey, Boston School Superintendent-designate, p. 1015.

[145] Testimony of John McDonough, p. 1085.

[146] Vice Chairman Stephen Horn, p. 1085.

Boston School Committee members have publicly indicated their awareness of an overall increase in student suspensions and a disproportionate increase in the number of black students suspended compared to white students. As quoted by the *Boston Globe*, Chairman McDonough blamed desegregation for the disparity in suspension rates and conceded that a lack of understanding of black students by white teachers could be partially responsible--"It's much easier to handle your own race than get into a confrontation with students of another race."[147] The Boston School Department has kept daily records of school suspensions by race; these records were readily available to the school committee and could have been used as the basis of an investigation into the suspension process. No such investigation has yet been initiated.[148]

F. 14. Ordered by the Federal district court to "eliminate every form of racial segregation in the public schools of Boston," the Boston School Committee has pursued a deliberate policy of minimal compliance.

(a) The effect of the Boston School Committee's statements, policy, and inaction was to foster within the community outright resistance to school desegregation.

(b) The Federal district court has been forced to implement school desegregation in Boston through a series of detailed orders formulating educational policy and directing the administrative process. In effect, the court is forced to act because the Boston School Committee has not.

(c) The Boston School Committee's 10-year history of opposition to the Massachusetts racial imbalance law, plus the committee's resistance to court-ordered school desegregation, precluded the comprehensive and sensitive preparation for Phase I which is vital to the success of any school desegregation program. To date, the school committee's planning for Phase II is limited to those items outlined in the May 10, 1975, court order, with the notable exception of the application for Emergency School Aid Act (ESAA) funding submitted by the Boston School Department.

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[147] Transcript of Hearings before Masters, testimony of John J. Kerrigan, Boston School Committee, p. 42.

[148] *Boston Evening Globe*, June 17, 1975, p. 3.

The Boston School Committee's consistent opposition to any State or Federal effort to correct racial imbalance or promote voluntary desegregation in Boston's public school system has been copiously documented at each step in the decade-long struggle to desegregate Boston's public schools.[149] Because school desegregation was avoided in Boston during that 10-year period, and because the school committee continued to campaign, and seemed able to deliver, on the promise that school desegregation would not happen in Boston, the residents of Boston had reason to believe that although Boston might continue to be threatened with school desegregation, that threat would never become a reality. The negative leadership of the Boston School Committee is in no small measure responsible for the city's defiance, first of the State racial imbalance law, and then of Federal court orders. At the Commission hearing in Boston, Chairman McDonough and committee member Kerrigan were asked whether the Boston School Committee would do all in its authority to implement fully and effectively Phase II:

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[149] Morgan v. Hennigan, 379 F. Supp. 410 *et seq.* (D. Mass. 1974) and Morgan v. Kerrigan, Civ. Action No. 72-911-G, Memorandum of Decision and Remedial Orders at A-1 - A-3.

> Mr. McDonough: I think it would be more realistic to say that the majority, at least, of the school committee, will do what Judge Garrity directs them to do. They will not take this plan in their arms as theirs. For my part, I will not go any further than doing what Judge Garrity directly orders me to do. And I will not end up as a salesman for a plan which I do not believe in.
>
> Mr. Kerrigan: ... If there was something I could do to stop it, I would... There is nothing I can do to stop it. 150/

The Boston School Committee is charged with establishing the policy for Boston's public school system. If the public actions of that body demonstrate a policy of minimal compliance with the court-ordered desegregation plan, the residents of Boston cannot be expected to react positively when that desegregation plan is implemented.

Because the Boston School Committee refused to take any initiative in implementing Phase I, the Federal district court began issuing specific orders on problems that needed resolution and that the school committee had ignored. Between July 12, 1974, and May 14, 1975, the court issued at least 30 orders dealing with issues ranging from general guidelines on faculty desegregation to items such as prohibiting the school department from reassigning nine teachers from one school to another. The school committee has, in effect, forced the court to administer the desegregation of Boston's public schools. Such day-to-day administration is an unwarranted imposition on a Federal court. It would not be necessary if public bodies were fulfilling their responsibilities.

F. 15. The Boston School Committee has not used the school desegregation process, as have some other communities, as an opportunity to assess the educational needs of the community and to improve the quality of education through innovation in the techniques and goals of the educational delivery system.

150/ Testimony of John J. McDonough and John J. Kerrigan, p. 1057.

(a) Under Phase I, a few individual schools, such as the Roslindale and Burke High Schools, improved educationally while desegregating due to advance planning, involvement of community organizations, and affirmative administrative leadership, among other factors.

(b) Educational improvement in such schools was the result of local efforts by a school and its community, and not of any central educational planning by the Boston School Committee.

The failure of the Boston School Committee to use the school desegregation process as a vehicle to improve education in Boston has been cited previously.[151] The school committee appears to have viewed school desegregation as little more than a numbers game involving the movement of students from one school to another; no steps have been discussed or taken which would change curriculum, teaching methods, or any other aspect of education in Boston's schools.

Despite the Boston School Committee's failure to do any more than was absolutely necessary to implement desegregation, communities and schools within Boston did use this transition period as a catylyst for change. Their experiences are discussed in greater detail below.[152]

RECOMMENDATIONS

R. 11. The Boston School Committee should undertake a systemwide review of the content and structure of Boston's public school system and develop a comprehensive plan which will significantly utilize all components of that system to achieve optimal educational opportunity under school desegregation.

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[151] See, Boston School Committee, Finding 11(a) and (d) and supporting documentation, *supra*.

[152] See, Boston School Department, Finding 27.

R. 12. The Boston School Committee should take affirmative steps to ensure public safety in the schools within its jurisdiction.

R. 13. The Boston School Committee should take affirmative steps to implement effectively the letter and spirit of the Federal district court's school desegregation order.

R. 14. If the school committee fails to take such actions, the court should consider placing the Boston public school system in receivership. The receiver might be either the State board of education or a private institution or person.

When school authorities fail to discharge their affirmative obligation to take those steps necessary to eliminate de jure school segregation, judicial "equitable" authority to fashion an appropriate remedy arises.153/ The scope of a Federal district court's equitable powers to fashion effective remedies for constitutional violations is "broad, for breadth and flexibility are inherent in equitable remedies."154/

> The remedy...may be administratively awkward, inconvenient and even bizarre in some situations and may impose burdens on some; but all awkwardness and inconvenience cannot be avoided in the interim period when remedial adjustments are being made to eliminate the dual school system. 155/

One such equitable remedy is the appointment of a receiver--a person or institution who controls and conducts the business of the defendant during the litigation.156/ Although a more extraordinary equitable remedy than an injunction, the imposition of a receivership has long been recognized to be

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153/ Swann v. Charlotte-Mecklenburg Board of Education, 402 U.S. 1, 15 (1971).

154/ Ibid.

155/ Ibid., p. 28.

156/ See Fed. R. Civ. P. 66.

within the power of a Federal court sitting in equity.[157] Commonly applied to conserve and protect corporate property during litigation,[158] a Federal equity receivership may be utilized in civil rights cases when the court finds that other remedies are inadequate.[159] Indeed, there is precedent for placing a school system in receivership for school desegregation purposes. In Turner v. Goolsby, 255 F. Supp. 724 (S.D.Ga. 1966), the U.S. District Court for the Southern District of Georgia removed the local school board of Taliaferro, Georgia, from power and appoi[illegible] the superintendent of schools for the State of Georgia as receiver.[160]

Local school authorities in Boston, specifically the Boston School Committee, have defaulted in their duty to desegregate Boston's schools. If such a default

from its position may be necessary.

There is a point at which de minimis compliance with court orders, when viewed as a whole, becomes intentional obstruction of those orders. There may also be a point at which the court is required to order so many specific actions[161] that the court itself is operating the school system. Should the school committee continue its present course of opposition, the best interests of the public school students of Boston may be served by removing the school committee from the governance of the

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[157] See, e.g., Pennsylvania v. Williams, 294 U.S. 176 (1935); Kelleam v. Maryland Cas.Co., 312 U.S. 377 (1941); and Hohensee v. Grier, 373 F. Supp. 1358 (M.D. Pa. 1974).

[158] See generally 7 Moore's Federal Practice ¶ 66.03.

[159] See, Note, Receivership as a Remedy in Civil Rights Cases, 24 Rutgers L. Rev. 115 (1969).

[160] In Turner, the superintendent of schools and the school board of Taliaferro County, in order to avoid a "freedom of choice" desegregation plan required by the Department of Health, Education and Welfare (HEW), had bused all of the county's white children to schools in neighboring counties and had then refused to file with the court any plan desegregating Taliaferro County schools. The court appointed a receiver to conduct the business of the school system and to prepare a plan desegregating the county's schools in accordance with HEW's desegregation requirements.

[161] For example, last year the court had to rule on such matters as the reassignment of black teachers from one school to another. Morgan v. Kerrigan, supra, Order, Aug. 28, 1974.

Boston public school system and replacing it with persons who can and will devote their time to the administration of the school system in accordance with the 14th Amendment. The receivership, if it proves necessary, should continue only as long as necessary to guarantee actual and lasting school desegregation.[162]

To date the Federal district court has had to work around the Boston School Committee. The successes that have occurred were achieved despite school committee resistance. The burden to make the school system work as ordered is currently on persons outside the school system. Although the court's contempt powers should not be abandoned, it is clear that should the school committee fail to take the above recommended actions, contempt citations will not be a sufficient remedy. It is doubtful that extensive litigation on the details of school committee actions would result in the affirmative actions and attitudes that must exist to secure equal and quality education in Boston.

A partial receivership--for example, for desegregation matters only--is inadvisable. In such a situation, school committee members would remain in a position from which they could exercise a negative effect on desegregation efforts. For example, school department staff, acting to facilitate school desegregation, would know that their careers were still in the hands of school committee members who oppose desegregation. The dismissal of Superintendent Leary after his efforts to comply with the court's order to desegregate the schools was viewed by many in that system as a clear warning that the school committee would retaliate against personnel for positive contributions towards school desegregation. For this reason, if a receivership proves necessary, the entire school committee should be removed from any direct operational authority over the department. The court should retain jurisdiction over school committee members so as to guard against their obstruction of the work of the receiver.

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[162] In Turner v. Goolsby, supra, the receivership lasted for most of 1 school year.

C. BOSTON SCHOOL DEPARTMENT

FINDINGS

Despite the efforts of Superintendent Leary to comply with the court's order to desegregate the schools, the record reflects the following findings:

F. 16. The Boston School Department made only minimal efforts to profit from the experience of other desegregating school systems by seeking information or actual assistance from them.

F. 17. Curriculum needs, relative to the desegregation order, were not reviewed; the school department neither suggested nor directed that academic courses dealing with subject matter, or with cultural and constitutional issues, be added to the curriculum.

F. 18. The Boston School Department provided minimal guidelines on the implementation of school desegregation, and those that were supplied were too late to be useful.

The Boston School Department relied almost solely on its own staff to design and carry out the implementation of Phase I. No consultants were hired; no expertise from other desegregating school systems was sought. The one meeting which did occur between Boston School Superintendent William J. Leary and superintendents from other desegregating school systems was fortuitously occasioned by their presence in Boston for another purpose. Superintendent Leary gave his view of this meeting:

> ...They were coming in anyway, and when I was aware of their presence, we communicated...We sort of have a nationally informal superintendents' network, so that when you visit a city if the colleague is available, you usually meet with him as a courtesy, anyway. 163/

163/ Testimony of William J. Leary, p. 128.

This attitude toward seeking assistance from other desegregating school systems pervaded the school department; such assistance was not considered a priority need.

Prior to being named superintendent of schools, Dr. Leary was for 4 years director of curriculum for the Boston public schools. Despite his experience with curriculum planning, no steps were taken by the Boston School Department to add any subject matter to the curriculum which would increase student awareness and understanding of school desegregation. The following exchange between Commission counsel and Dr. Leary is illustrative:

> Commission counsel: In your planning for Phase I, was there any notion of examining the curriculum within the social studies or the history department to determine whether or not the students of Boston were being provided with a clear understanding of race relations and how they've developed in this country, and what leads up to a desegregation order?
>
> Dr. Leary: Well, I had been, as I mentioned previously also, director of curriculum in the Boston public schools, and we had since 1969 provided and worked on curricula in the city dealing with those particular matters, and in fact with other matters as well, including--
>
> Commission counsel: Is there today or was there last year any specific course that deals with the history of race relations in the State of Massachusetts or the city of Boston?
>
> Dr. Leary: Not a specific course as such, but probably as part of social studies. Certainly, I as a teacher, used to teach it, and I assume that some of my colleagues do. I know they did in some of the other high schools, and I assume they still do.
>
> Commission counsel: But...there was no specific component designed around that area?
>
> Dr. Leary: No, there was not. 164/

164/ Pp. 129-30.

Because the Boston School Committee chose not to exercise any initiative or affirmative leadership in desegregating Boston's public schools, the responsibility for Phase I preplanning and implementation fell to the Boston School Department. Specific coordination responsibility was delegated by the school committee to the school superintendent.

The focal point for Phase I planning and implementation was the superintendent's office, with tactical support from the education planning center. Communication with area superintendents and local school administrators was minimal, transmitted in the form of directives without instructive guidelines; 165/ the faculty and administration at each school received little advice or instruction from school department headquarters.

Implementation guidelines were finally issued by the school department in October 1974, well after both the initial planning phase and the confusion of school opening were past. At that point in the school year, one headmaster remarked, "The guidelines made interesting reading...if anyone had time." 166/ Although such limited communication may well have been unintentional, it caused a serious lack of understanding and information at the community level.

F. 19. Desegregation training provided through the Boston School Department was neither sufficient nor innovative, and the school department sought no outside professional assistance in planning its training.

(a) Support personnel, such as transitional aides and bus monitors, were given a bare orientation and no further preparation or inservice training.

165/ Series of superintendent's memoranda and administrative circulars issued pursuant to Phase I implementation, April-November 1974.

166/ Interview with William Reid, Headmaster, South Boston High School by Hester Lewis, USCCR, May 1, 1975.

(b) Some training for faculty and staff personnel was limited to developing human relations skills.

(c) Training in the technical skills needed to design a plan for, and operate, a desegregating school system was not provided.

Most of the training preparatory to school desegregation in Boston was provided through and by the Boston School Department. Although the school department training staff may have been large enough to handle the ordinary training needs of the school system, that same staff was sufficient neither in number nor in expertise to meet the needs of a school system faced with a massive desegregation order.[167]

Prior to the opening of school in September 1974, attempts were made over the summer to provide training opportunities for faculty and administrative personnel; these attempts were thwarted by delays in funding.[168] An additional complicating factor is that the collective bargaining agreement between teachers and the school system requires that such training be available to all teachers and that they be paid above their normal salary while receiving this training. Although a training session finally took place, it was last minute and, therefore, suffered from a lack of organization. According to a number of sources,[169] many who wished to attend were out of town because there had been little advance notice, and the training provided was not particularly useful.

The development of any overall school desegregation training plan for the city of Boston was affected by HEW's freeze on ESAA and new Federal funds which lasted until January 1975. During that period no other public or private funding for training was sought by the school department.[170]

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[167] Interview with Dorothy Cash, Project Director, Orientation for Integration, Boston School Department, by Hester Lewis, USCCR, Apr. 10, 1975.

[168] Testimony of William J. Leary, p. 135.

[169] Interview with Joan Dazzi, teacher, South Boston High School by Hester Lewis, USCCR, May 6, 1975; and Joanne Vacca, teacher, Edwards Middle School, Charlestown, by Kathleen Buto, USCCR, May 2, 1975.

[170] Testimony of William J. Leary, p. 131. Federal funding is required to be terminated once there is a Federal district court finding of discrimination. Once the school committee was determined to be technically in compliance, based on affidavits to obey "lawful court orders," the funding ban was lifted.

When Emergency School Aid Act funds were released to Boston in January 1975, the school department proceeded to implement the training programs its staff had devised; these were primarily oriented toward development of human relations skills. 171/ No expertise from other desegregating school systems was sought.

When the school department hired over 700 paraprofessionals to serve as bus monitors and transitional aides in the schools, it was immediately apparent to the school department's director of crisis prevention and intervention, Ann Foley, that training was needed to prepare this support staff for their task. 172/ A 2-day orientation was provided, but Ms. Foley was frank in admitting it was inadequate.

> ...Many of these people wanted sincerely to do the best job that they could, and I really feel as though we should have provided them with perhaps more training. Because of money and time, this was not possible. 173/

In the course of the Commission's investigation in Boston, the opinion was often expressed that while human relations training was somewhat useful, more practical skills were needed. The headmaster of South Boston High School, William Reid, felt that having the opportunity to meet with visiting superintendents from other desegregating school systems was the most fruitful "training" he received in terms of preparing for the day-to-day desegregation experience. 174/ At the Commission's hearing, Dr. Reid testified:

> I would like to have my own staff from my own school and work with them on how we prefer to run the school, and be more specific in the training. More practical. Perhaps less human relations, and more practical school matters. 175/

171/ Cash interview, *supra*.

172/ p. 180.

173/ *Ibid*., p. 182.

174/ Reid interview, *supra*.

175/ p. 768.

F. 20. The educational planning center, responsible for all student assignments and the development of school desegregation plans under the Phase I court order, was both understaffed and lacked formal training in the school desegregation planning skills necessary to accomplish these tasks.

Prior to the advent of school desegregation in Boston, the Educational Planning Center (EPC) functioned with a core staff of 10 to 12 persons. 176/ As noted earlier 177/ center staff members shared a general background in education; the only desegregation-related experience they possessed was that acquired in working with the State racial imbalance plan. 178/ Both the superintendent and the associate director of the center testified that the staff was increased by 10 or 15 persons in order to plan for school desegregation; it is questionable whether a staff of 20 to 25 persons could adequately handle the somewhat overwhelming task of making optimal assignments and scheduling decisions for some 82,000 Boston students.

176/ Testimony of John Coakley, Associate Director, Educational Planning Center; Assistant to the Implementation Coordinator, Boston School Department, p. 127.

177/ Testimony of William J. Leary, p. 127.

178/ See Boston School Department Finding 16 and supporting documentation, *supra*.

When the staff was expanded, no effort was made to seek persons with skills particularly related to the needs of a desegregating school system.[179]

Mr. Coakley described what skills were considered in hiring additional staff:

> ...primarily our interests there were in getting a variety of teachers from the several grade levels so we could have a fairly global view of the school system as we endeavored to carry out the implementation.
>
> Commission counsel: Did you bring into the EPC at any time persons from other parts of the country or from the Boston area with specialized desegregation training, be they law professors or sociologists or educational specialists in desegregation?
>
> Mr. Coakley: We did not. [180]

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[179] That Boston was ineligible for Federal technical assistance specifically aimed at aiding communities to develop school desegregation plans is a bureaucratic "Catch 22" which the Commission does not understand. Title IV of the Civil Rights Act of 1964, 42 U.S.C. 2000c (1974), makes the technical (and financial) assistance available to local educational agencies in order to facilitate school desegregation. *See* United States Commission on Civil Rights, *Title VI and School Desegregation*, (1973), William Logan, Regional Commissioner of the U.S. Office of Education (a part of the Department of Health, Education, and Welfare) testified at the Commission's Boston hearing that the Hartford General Assistance Center, a Title-IV-funded organization with extensive experience in drafting school desegregation plans, was denied an $11,000 component to render school desegregation technical assistance to Boston (p. 1137) because of Boston's noncompliance with civil rights requirements. The ineligibility continued, however, even after the court's June 21, 1974, order requiring partial school desegregation and was lifted in November only after the court's "final order." Such continued ineligibility is inconsistent with the purposes of Title IV, which is aimed at getting technical assistance to communities so that they can in fact desegregate effectively.

[180] P. 176.

F. 21. No mechanism was established by the Boston School Department for central coordination of all public and private desegregation efforts going on in Boston. The resulting lack of informational exchange caused confusion, duplication of effort, and inaction.

Although the superintendent was the official implementation coordinator, he established no mechanism which would ensure that all actors in the school desegregation process were kept regularly and completely informed of all Phase I activities going on in Boston.

The lack of such a coordinating mechanism caused continuing problems. Without a central source for the exchange of information, neither those directly involved in the desegregation process nor the citizens of Boston could be sure whether they had accurate and complete information. Formulating plans and programs was made more difficult because one could not discover what planning and programming had been or was being done.

An example of such confusion and possible duplication of effort was the experience of many community residents who were interested in either designing or participating in school department training programs. No one appeared to know what kinds of training were available, what kinds of program funds had been applied for and might be obtained, or what sources had been applied to for training assistance. 181/

181/ Interview with Robert DeMartile, Assistant Director, Crisis Prevention and Intervention Department, ESAA training grant coordinator, by Hester Lewis, USCCR, Apr. 10, 1975.

F. 22. The Boston School Department is responsible for maintaining and upgrading the physical plants of the schools within its jurisdiction; the school department has established no priority system under which both short term health and safety requirements and long term renovation needs in Boston's public schools can be met.

The physical condition of school buildings in Boston influences parents' feelings of security in sending their children to school. Many children, under the Phase I desegregation plan, were assigned to schools they had not previously attended. Where the "new" schools were well maintained and in good physical condition, parents were far more receptive to school desegregation.[182]

School buildings in Boston are in disparate states of repair and reflect the ad hoc basis on which repair and renovation decisions are made. A considerable amount of testimony during the hearing concerned the disreputable state of the main South Boston High School building. Its history of unanswered requests for repair was described by the headmaster of that school.

> Commission counsel: Would you agree...that the school is physically run down?
>
> Dr. Reid: I would agree 100 percent.
>
> Commission counsel: How would you explain that?
>
> Dr. Reid: Lack of money and the inertia of bureaucracy.
>
> Commission counsel: Have there been constant requests from you to the school authorities to repair or rebuild South Boston High School?
>
> Dr. Reid: There have, sir.
>
> Commission counsel: Have those requests been specifically turned down, or just never responded to?
>
> Dr. Reid: More, never responded to. 183/

Dr. Leary, in his capacity as school superintendent, was asked why it appeared that some schools were permitted to fall into greater

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182/ Testimony of Jane Moss, Co-chairperson of the Burke High School biracial council.

183/ Testimony of William J. Reid, p. 612.

disrepair than others. He cited a combination of limited funding and poor administrative policy; responsibility for policy was said to belong to the department of planning and engineering. The Massachusetts legislature controls the amount of money which can be spent on school department building repairs. Although this sum was recently raised from $2.5 million to $5 million[184] per year, Dr. Leary does not think this amount will cover adequately the cost of building maintenance in Boston. The $5 million figure does not include new building construction.

Dr. Leary explained how the department of planning and engineering operates:

> ...the way the money is spent by the [chief structural engineer] is on a reactive basis rather than on a proactive basis. The plans for building repairs and requests for building repairs come in every year, and his explanation to me has been that he takes them on a priority basis...But we have other emergencies such as glass breakage, fires, and the money that might ordinarily be spent--again a limited amount--on requests from a school such as South Boston High School might be delayed... .[185]

Although it appears clear that the system of priorities of the department of planning and engineering does not function, the school department has not taken steps to correct it in order to ensure that both short term and long term maintenance are guaranteed.

F. 23. School attendance during Phase I of the desegregation process dropped sharply in Boston.

(a) The Boston School Department made no substantial effort either to enforce the existing State truancy laws or to establish guidelines to encourage school attendance.

(b) The Boston School Department took no steps to ensure that disciplinary suspensions were impartially administered and not arbitrarily imposed.

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[184] Testimony of William J. Leary, p. 142.

[185] P. 143.

Approximately 82,000 students were enrolled in the Boston public school system during the 1974-75 academic year. Attendance figures for the year hit a low of 41,802 on National Boycott Day; peaked at 64,138; and averaged over 60,000. 186/

In Massachusetts, students and their parents are subject to a compulsory school attendance law. Parents can be fined for failure to keep their children in school, and it is a crime for any person to induce truancy. Responsibility for enforcement of the compulsory student attendance law in Massachusetts lies with the school committee in each school district. 187/ Student attendance supervisors (truant officers) are qualified for their positions by civil service and are hired from a list of certified applicants by each local school committee.

The Boston School Committee employs 36 student attendance supervisors; none is black and only one is of Spanish speaking background. 188/ In Boston this year gross school attendance figures show a disparity of at least 20,000 between student enrollment and student attendance. 189/ Even accounting for legitimate absences and school suspensions, the number of students out of school was substantial.

F. 24. At least two conclusions concerning low student attendance can be drawn. Both point to a failure on the part of the Boston School Department.

(a) School attendance was not enforced during Phase I of the school desegregation process in Boston. The school department appears to have taken no steps to correct this situation, either to increase the number of attendance supervisors, or to promote their increased effectiveness through appropriate training, directives, adequate supervision, and, if appropriate, disciplinary procedures. 190/

186/ Boston School Department, Information Center, daily student attendance reports. National Boycott Day was Oct. 3, 1974.

187/ Mass. Gen. L. Ch. 76, §§1, 2, 4.

188/ Testimony of Marion Fahey, p. 1015.

189/ Boston School Department, Information Center, daily student attendance records.

190/ Testimony of Ms. Fahey, p. 1015-16.

(b) *No steps were taken by the Boston School Department to affirmatively promote student attendance. Schools in Boston operated as usual under Phase I, but extraordinary efforts may be required in a desegregating school system with its attendant confusion and apprehensions. The Boston School Department failed to perceive the need for or to implement any of the positive measures necessary to encourage students to attend school.*

The number of students suspended from Boston public schools increased markedly during Phase I. An analysis of attendance and suspension data from the eight public high schools (examination schools were omitted) in Boston school district areas II through VII shows a significant increase in suspensions of black high school students. [191]

The increase in the suspension rate of black students is critical; 46 percent of the black students attending eight high schools surveyed had been suspended by the end of January 1975, and based on the figures to that date, it was projected that 50 percent would be suspended by the close of school in June 1975. The conclusion drawn by the analyst who compiled these data was that:

> ...the odds against observing a disparity as large as the one we observe against the black students, in data from a system with equal probabilities of suspension for both black and white students, are overwhelming. Therefore the observed disparity against the black students in suspension rates is systematically related to race. [192]

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[191] Affidavit of Paul V. Smith, educational data analyst, Children's Defense Fund of the Washington Research Project, Inc., filed in Morgan v. Kerrigan, Civ. Action No. 72-911-G. The following data is from the eight public high schools noted in the text, above.

YEAR	TOTAL NO. OF SUSPENSIONS		PERCENTAGE OF EACH GROUP SUSPENDED	
	BLACK	WHITE	BLACK	WHITE
1972-3	596	924	14.4	13.3
1973-4	1056	1395	23.8	20.8
1974-5	1904	868	46.2	21.7

[192] Id., p. 7.

This analysis was drawn from raw data compiled by the Boston School Department and presumably could have been similarly analyzed by school department personnel. Such analysis has not been undertaken by the school department, nor is there any indication that the dramatic increase in the number of black students suspended is viewed by the school department as a major problem.

Although the school department's code of student discipline has been under revision during the past year, no final version has yet been approved. In the meantime, little if any effort appears to have been made by the school department to review the procedure for suspending students or to ensure that such suspensions are not arbitrarily imposed.

F. 25. A successful bilingual-bicultural program is an important element of school desegregation in Boston.

The Commonwealth of Massachusetts has passed a law supporting the inclusion of bilingual education in the State's public schools.[193] Although the Boston schools have offered bilingual programming, as mandated under the law, Boston's bilingual residents have been concerned that the Phase I and Phase II desegregation plans would not consider the needs of the bilingual students. Maria Estela Brisk, director of the bilingual education program at Boston University, testified at the hearing on her experience with the provision of bilingual education in the desegregated setting. She described the efforts of parents to gather information on the numbers and levels of ability of Boston's bilingual students, and maintained that meaningful bilingual education could be achieved in a desegregated setting.[194]

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[193] Mass Gen. L. Ch. 71a (Supp. 1975).

[194] P. 391 *et seq*.

Paul Parks, State secretary of educational affairs, has indicated ongoing State support for bilingual programming in Boston's public schools:

> I strongly believe that a successful bilingual-bicultural program is vital to the desegregation of Boston's public schools. Further, I strongly endorse the parental and community involvement in the educational process mandated by our State statute concerning bilingual education...My goal is that every child in this State receive a quality education. A good bilingual-bicultural program is an important component and without it that goal cannot be reached for children of limited English-speaking ability. 195/

F. 26. The Boston School Department has delegated little real authority or responsibility to the assistant (area) superintendents. Such a lack of delegation causes a superfluous bureaucractic layer in a system which has a shortage of decisionmaking personnel.

As administrative heads of the newly created Phase II school districts, the assistant area superintendents potentially have a significant role to play in school desegregation. Five of the six assistant school superintendents in the Boston School Department were interviewed by Commission staff. The impression gained during these interviews was one of good intentions but little real decisionmaking authority. The role of the assistant superintendent is self-defined by those who hold that position as being responsible for knowing how the schools in her or his area are faring and acting as something of a conduit between local principals and the superintendent of schools. 196/

In a recent management study of the central administration of the Boston public schools, Peat, Marwick, Mitchell & Co., concluded that the role of the assistant superintendents was not well defined.

> The role of the assistant superintendents assigned to the city's six geographical areas is not clearly defined. Further, the assistant superintendents have no support staff other than a secretary, and limited authority. Organizationally, they appear to be directly responsible for the primary education function of the school system; however, this

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195/ Letter from Paul Parks, Secretary of Educational Affairs, Commonwealth of Massachusetts, to Manuel Ruiz, Jr., Commissioner, U.S. Commission on Civil Rights, June 18, 1975.

196/ Interviews by Commission staff with assistant superintendents in areas I through V, May-June 1975.

> responsibility is clouded by their lack of support staff, the power and influence of associate superintendents, and the requirement that they report through the associate superintendent for operations to the superintendent. 197/

Peat, Marwick, Mitchell & Co. recommended, on the basis of its analysis, that the position of assistant superintendent be clarified, its authority expanded, and its staff supplemented accordingly. 198/

F. 27. Certain schools and communities in Boston planned for and operated successfully under Phase I of the school desegregation process, largely as a result of efforts made at the local level to ensure that success.

As part of the investigation preceding the Boston hearing, the Massachusetts State Advisory Committee to the U.S. Commission on Civil Rights conducted a survey of Boston schools in which the desegregation process had gone reasonably well; schools where violence or disruption was minimal; schools which functioned in a largely routine manner; and schools where attendance was relatively stable. The Committee found that such schools were characterized by "strong" administrators who planned ahead and who were both consistent and positive in their policies. Students in these schools were found to have accepted one another and to have functioned without obvious tension and conflict. The Committee found that the attitude of parent and community groups was crucial; in all situations where things went reasonably well, organized and aggressive antibusing groups were either absent or were effectively neutralized by positive community forces. Finally the Committee pointed to the often overlooked fact that the majority of Boston's public schools were desegregated with reasonable success. 199/

Testimony before the Commission made clear that where the desegregation process went smoothly, the school and community deserved the credit.

197/ Peat, Marwick, Mitchell & Co., Management Study of the Central Administration, Part I, prepared for the Boston School Committee (1974), p. 7.

198/ Ibid., p. 13.

199/ Testimony of Dr. Erna Ballantine Bryant, member, Massachusetts State Advisory Committee to the U.S. Commission on Civil Rights, pp. 354-57.

At the Jeremiah E. Burke High School in Roxbury, not only did desegregation go smoothly, but also, in the opinion of those faculty and students interviewed by Commission staff, the year was an unqualified success. The headmaster was asked, at the hearing, how the Burke School was able, without paid staff over the summer, to prepare adequately for the opening of school in September 1974:

> ...We have some dedicated people at the Burke; aides, teachers, the kids, members of the biracial council. If somebody really wants it to work and worked hard enough at it to make it work, it will work. But it takes a lot of hard involvement and cooperation and getting at the nitty gritties and dealing with them and doing the best you possibly can to come up with methods of overcoming problems and staying with the task of getting it done. We did that. It was a long hard summer.200/

A Burke teacher followed up on the headmaster's comments:

> ...the kids by October realized if they didn't do their work and weren't going to study, they were going to fail. And this was, I think, of vital importance. There was a lot of education, a lot of learning, a lot of teaching going on in the building, and the kids realized it. 201/

One Burke student spoke of the cooperation and determination exhibited by the students and faculty.

200/ Testimony of Douglas Foster, p. 274.

201/ Testimony of Joseph Day, teacher, p. 283.

> At first...everybody was kind of scared because no one had really talked to each other to know where each other stood. Everybody was kind of walking around each other. And as the year progressed, we talked and we got to understanding, and we found a common ground. ...That we had all come to Jerry [the Burke] for one thing, and that was to get a quality education and that in doing so, we would do it together. 202/

Another Burke student quoted from his valedictory speech at graduation.

> What struck me the most was that the school was practically new to most of the student body. To some students, the environment was also new. But everyone opened his friendship to one another and that seemed strange for this type of situation. But we did it. And now, not only can we say that we are proud of the Jeremiah Burke High School, but we can also say that the high school is proud of us. 203/

Roslindale High School was faced with the substantial organizational task of receiving and coordinating schedules for students from approximately 30 middle schools; prior to last year Roslindale received students from only two middle schools. In an attempt to become familiar with the schools students were coming from, the Roslindale faculty coordinated teaching assignments during the last 4 months of school so that at least two teachers could be freed each day to visit those other schools. 204/

Curriculum content was considered an important factor in the desegregation process at Roslindale; each department head assumed the responsibility of evaluating existing curriculum

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202/ Testimony of Jan Douglas, p. 329.

203/ Testimony of Paul Mooney, p. 335.

204/ Testimony of Helen Moran, former Headmaster, Roslindale High School, pp. 626, 625.

and suggesting changes. During Phase I the social studies curriculum was changed to deal with race relations and the background to school desegregation, and an ethnic studies course will be added in Phase II.[205]

Community support for the desegregation process at Roslindale was strong. The acting headmaster noted that he leaned heavily on the support he received from the Lena Park organization, and spoke of other community organizations.

> The home and school association was in the building assisting me for the first 3 days of the opening of school, directing students to where their classes were, and has supported me all year long. I think this has been a key factor. I have had support from all the organizations in all the communities connected with Roslindale High, and without their assistance, you wouldn't be able to exist.[206]

It seems clear from the Massachusetts State Advisory Committee survey, and from the examples noted, that local efforts were in many cases the deciding factor. Where efforts were positive, desegregation had a much greater chance of success; where efforts were lacking, desegregation magnified that lack of community and school leadership.

F. 28. Those schools and communities where desegregation was less than a success suffered partially because of a failure of educational and/or organizational leadership at the local level, and partially because of a lack of assistance and support from the Boston School Committee and the Boston School Department.

The schools which experienced the most severe difficulties during Phase I, such as the Hyde Park and South Boston High Schools, quickly became the focus of national news coverage. Unfortunately, the emphasis was placed on violence and disruption at those schools, and little attention was paid to searching out the reasons why those particular schools had more difficulty than others.

The Commission investigation of the South Boston High School and community indicated that in addition to the substantial opposition to school desegregation in South Boston, there was no affirmative community leadership attempting to foster any support for the Phase I plan. The testimony of the director of the South Boston Action Council is representative of the posture of South Boston's social agencies:

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[205] Testimony of Donald Burgess, p. 636.

[206] Pp. 634, 635.

> Commission Counsel: What role did the South Boston Action Council play in the desegregation of the schools in Boston in Phase I?
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> Mr. Spence: The action council plays and has played no direct role because it feels, as most of the agencies in the community do, that its prime responsibility is to provide services. ...And in order to provide those services it must maintain a status with the community that will not alienate potential clients. 207/

When asked whether the action council's board of directors had taken a position on school desegregation in South Boston, Mr. Spence replied,

> The board specifically discussed whether or not it should take an official stand, and decided that it was in the best interests of the program not to. 208/

Without the affirmative support of the community's social agencies, and facing a community which aggressively opposed desegregation of its schools, through demonstrations and an ongoing school boycott, the headmaster of South Boston High School had an uphill fight. He testified at the hearing that community involvement with the schools had traditionally been limited to athletics, and that there was little communication otherwise. 209/ Asked to characterize the community's response to school desegregation in South Boston, Dr. Reid replied,

> First, the community didn't believe it would ever happen. And secondly, I think the boycott expressed their opinion. 210/

207/ Testimony of Carl Spence, p. 728.

208/ P. 733.

209/ P. 763.

210/ P. 765, 766.

Clearly the South Boston community did not support Phase I, nor offer any assistance in its implementation. This default at the community level, plus the already amply documented lack of guidance or leadership from either the school committee or the school department, proved a devastating combination for the educational process in South Boston.

F. 29. The policies contributing to success or failure of the Phase I desegregation plan in individual Boston schools can be itemized, but it must be realized that no single policy decision was definitive and that differences in the combination of factors and in the conditions and context under which they occurred would alter the outcome. The following policies appeared to be successful in some Boston schools.

(a) involvement of students and parents in planning for the operation of Phase I in individual schools and communities;

(b) having a schedule card ready for each student on the first day of school and prohibiting students without schedules from remaining in the school building;

(c) using student negotiating teams in crisis situations;

(d) limiting community access to the school building during school hours, by keeping doors locked during those hours.

(e) utilizing junior staff persons as class deans as a part of the mediation process when student behavior problems arose;

(f) proportionally limiting the number of transitional aides hired from the immediate community in which the school is located;

(g) maintaining distance between the school building and persons gathering to demonstrate at the school;

(h) treating all students equally both in learning and disciplinary situations.

Where parents and/or students were involved in the initial phases of the planning for school desegregation, they had an interest in seeing their efforts succeed; such involvement also created a base of community support in which the school personnel could operate more effectively. The acting headmaster at Roslindale asked members of the home and school association to assist in escorting new students through their schedules for the first few days of school[211], which proved very successful. A South Boston parent whose son attended the Burke High School during Phase I described how she first became involved in school support activities at the McCormack Middle School which serves Columbia Point (predominantly black) and South Boston (predominantly white) communities.

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[211] Testimony of Donald Burgess, p. 634.

> I really wanted to meet some parents from Columbia Point so that we could start sitting down and sharing things about what was going to happen in September. That probably started in April or May. As a result of these meetings, we put an ad in the [paper] about a reading program that was going to take place at the school, and one South Boston parent came. ...she found many parents in South Boston who were also going to have kids that would be attending the McCormack school. And we all started sitting down and speaking with each other and that went on all summer. 212/

In September those schools which had been successful in preparing schedule cards for each student found their first days went more smoothly, and the confusion caused at other schools by students who had no place to report prevented. A teacher from the Burke High School commented on having schedule cards ready for incoming students:

> From my understanding, talking to other teachers in the city, we were the only school that had a program for all the kids when they came in the first day, so there was no wandering. 213/

In preparing for possible crisis situations, Elma Lewis, who directs the Elma Lewis School of Fine Arts in Boston, recommended the use of students as negotiators:

> When there was some tension in school, and school had to be dismissed at Hyde Park High School, we did sit with students--we invited students to come to our schools the next morning, instead of going to public school, and succeeded in sending a group of youngsters out as a negotiating team, who had arrived as hostile and [as] possible mob participants. I, therefore, think that it is entirely possible all over the city, with proper leadership, to do that with students of all ages. 214/

212/ Testimony of Jane Margulis, co-chairperson, Burke High School biracial council, p. 251-53.

213/ Testimony of Joseph Day, p. 283.

214/ Testimony of Elma Lewis, Director, Elma Lewis School of Fine Arts and National Center of Afro-American Arts, Boston, p. 216.

Public access to Boston school buildings proved a problem in some communities, where unauthorized visitors to the school buildings caused confusion and occasional disruptions. The administration at Roslindale High School alleviated this problem by keeping school doors locked during shoool hours.[215] Persons wishing to enter the school building, whether tardy students, parents, or other visitors, could gain admittance only by ringing the doorbell. This policy helped maintain a calm and stable atmosphere in the school throughout the entire school year.

At the Burke High School discipline problems had traditionally been handled by heads of academic departments. In planning for desegregation it was decided that some of the younger staff persons would be useful in handling student discipline. The headmaster commented on his faculty:

> ...we had a good faculty, a dedicated faculty, an experienced faculty. ...who had gone through some very difficult times in dealing with minority kids, kids from a low socioeconomic background. And they were very sensitive to the needs of kids. 216/

Transitional aides have been a valuable source of support personnel in most of Boston's desegregating schools during Phase I. Several staff personnel noted, however, that the transitional aides will be most effective, as a group, if they are primarily not from the community in which they serve. The transitional aide coordinator at South Boston High School indicated in his testimony that community aides can become emotionally involved in situations which involve students familiar to them.[217] This problem can be avoided by limiting the number of aides hired from the immediate community.

Because of the problems created by crowds gathered outside of several schools during Phase I to protest the school desegregation order, the court ordered that groups gather no closer than 50 feet from a school building during school hours.[218]

215/ Testimony of Donald Burgess, p. 632.

216/ Testimony of Douglas Foster, p. 276.

217/ Testimony of Frank DiMaggio, p. 775.

218/ Order issued pursuant to Morgan v. Kerrigan, Civ. Action No. 72-911-G, Dec. 17, 1974.

Several teachers interviewed by Commission staff spoke of the initial difficulty they experienced in dealing with students of another race. Rather than treating all students alike, some teachers had favored black students on the theory that they needed more assistance in adjusting to a new situation. In every instance the teachers stated that this created problems in the classroom, and equal treatment was the only workable policy. The misuse of the suspension process has been noted previously.219/ Discriminatory suspension should not be relied upon to keep order in the school.

F. 30. Although biracial councils under Phase I were not positively accepted in some communities, those biracial councils that were operative experienced considerable success in mediating student disputes and in involving parents and students in the school desegregation process.

The Federal district court ordered that racial-ethnic parents councils be established in Phase I, in all schools in which 10 or more of the students enrolled were either white or black, or where 60 or more students were of Oriental or Hispanic origin. Racial-ethnic student councils were mandated on the same basis, but elementary schools were excluded.220/

Establishing such councils in those communities opposed to school desegregation was difficult and in some cases impossible. For the most part, however, where councils were established they had some degree of success.

A student from Roslindale High School had this to say:

> It took us about 2 weeks to finally meet. And it was nice in a way, how it ended up, but it was, it was really hard on you and you know, you get very sensitive to the situation when seeing, you know, six whites and six blacks. When we were first meeting, we'd go back and forth, like name calling and things like that, but then, after a couple of hours, we realized that that wasn't it. You know, that's not going to help anything. We didn't want to see anybody get hurt and we started working on things from there. 221/

219/ *See* Boston School Department, Finding 22, *supra*.

220/ Memorandum and Order Establishing Racial-Ethnic Councils, Morgan v. Kerrigan, Civ. Action No. 72-911-G, Oct. 4, 1974.

221/ Testimony of Cheryl Teebagy, student, Roslindale High School, p. 605.

A member of the Burke biracial council gave her view:

> We started out, not so much trying to make the kids love one another, but to merely respect one another. After our biracial meetings, somewhat or other it came about that they wanted to go out. So we started to go out afterwards. The kids became friendlier, they learned to socialize with one another. We went to one place and they had such a good time. . . 222/

Community opposition to school desegregation in South Boston made it impossible to elect either a student or parent biracial council for South Boston High School. Members were elected from the Roxbury High School portion of South Boston High and they met regularly all year long with parents from South Boston who were interested in trying to make desegregation work on an informal basis. A South Boston parent had this to say of his experience as part of that ad hoc biracial council:

> I'd like to appeal to all the black and white parents of the city of Boston to join--and Chinese and any other ethnic groups--to join the multi ethnic groups that are going to be called for assembly,. . .as an arm of the Citywide Coordinating Council. I think if we can sit down, each school district, black and white, as we did. . .if we could have half the success that the South Boston-Roxbury biracial council had, I think we will make great strides in getting quality education into the city of Boston this coming year. 223 /

222/ Testimony of Joan Moss, co-Chairperson, Burke biracial council, p. 261.

223/ Testimony of Jim O'Sullivan, p. 709.

RECOMMENDATIONS

R. 15. The Boston School Department should develop a mechanism to make effective use of public and private citywide organizations to assist in the school desegregation process in Boston.

The Boston School Department should explore and utilize the memberships and facilities of all organizations with a citywide base, such as labor unions, veterans groups, and religious organizations, in order to broaden practical and moral support for school desegregation.

R. 16. As the primary provider of school desegregation training offered in Boston, the Boston School Department should ensure that information concerning the availability and types of programs is circulated as widely as possible.

The school department should establish an information clearinghouse for all training programs which relate to the desegregation process so that the following information is immediately available to any interested party:

(1) the names of groups applying for training funds;

(2) what kinds of programs have been applied for and which are presently scheduled to take place; and

(3) what organizations, public or private, have received applications for funds or for designing a training program package. The school department should also develop a system to evaluate all training programs undertaken in Boston in order to select those which are most successful.

R. 17. The Boston School Department, as part of its day-to-day responsibility, should ensure that the Citywide Coordinating Council is kept informed of all actions taken by the school department pertaining, directly or indirectly, to the school desegregation process.

The Citywide Coordinating Council is responsible under Phase II for monitoring desegregation in Boston's schools. It is, therefore, imperative that the school department keep the council informed on all issues relative to desegregation; the school department should designate a liaison person within the department to be responsible for continuing communication with the council.

R. 18. The Boston School Department should take all necessary steps to ensure better communication with, and more involvement of, the local communities involved in the desegregation process.

As noted previously,[224] most desegregation planning has been centralized in the superintendent's office. The department should decentralize this process[225] and should consider the following steps primary in the process:

(1) an accurate and credible information center to both deal with rumor control and provide general information;

(2) parent and student input;

(3) interaction of the school department with the community;

(4) local planning, placing responsibility on local residents and school personnel rather than handling the entire process centrally.

R. 19. The Boston School Department should establish priorities to allow for ongoing school building maintenance while ensuring that emergency building repairs are made.

Building maintenance and repair was found to be a controversial topic at the hearing. As noted earlier,[226] the school department has not exercised adequate direction in this area, and should now do so.

R. 20. Guidelines for performance of the position of attendance supervisor need to be developed and enforced by the Boston School Department, with approval of the Boston School Committee.

Many students dropped out of Boston's public schools last year; such a drop in student attendance need not be permanent. The school department should take steps to encourage school attendance, and enforce such attendance. The school department should also investigate the rate of student suspensions and the procedures leading to a suspension.

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[224] See Boston School Department Findings, 16, 17, 18 and support material, supra.

[225] Testimony of William J. Leary, p. 139.

[226] See Boston School Department Finding 22, supra.

R. 21. The Boston School Department should be in continuous contact and cooperation with all city agencies charged with responsibility for safety on the streets of Boston. These include not only the police and fire departments, but the mayor's office of human rights, the youth activities commission, and the public service commission.

R. 22. Each school involved in the Phase II school desegregation process should utilize those techniques and policies found to be helpful in the schools where desegregation was successful during Phase I.

Boston public schools which were not affected by the Phase I desegregation process should explore ways of implementing the Phase II desegregation plan. Schools involved in Phase I used a variety of techniques to make the process work, as outlined above. Their experiences should be tapped by schools now planning for implementation of Phase II.

R. 23. Each school involved in the desegregation process should make maximum efforts to involve the community from which the students are drawn in planning, in implementation, and as participants, wherever possible.

As indicated above, community involvement promotes community investment in the outcome of that involvement. Student assistance to community agencies, where such assistance can be useful, should be encouraged.

R. 24. The headmaster or principal is the responsible official in a public school. As such, that official should have authority to match her or his responsibility and should be held accountable within the system. Vacuum situations arising out of a shifting of responsibility could be avoided in this way.

Headmasters and principals are the educational leaders in their communities. They are expected to provide the best education possible, given resource limitations. Headmasters and principals should be responsible for all functions and activities within their school buildings and should be held accountable therefor. In order to ensure accountability within the school system, each headmaster and principal should expect to bear overall responsibility for both student conduct and educational achievement.

R. 25. The biracial councils, mandated by Phase II, should be vigorously supported by the educational leadership in Boston.

Biracial councils played a valuable role in promoting the involvement of parents and students in the school desegregation process during Phase I. Their experience will be useful in planning for Phase II and in acquainting the Citywide Coordinating Council with the problems and solutions stemming from Phase I implementation.

D. BOSTON POLICE DEPARTMENT

FINDINGS

F. 31. Peaceful implementation of school desegregation in Boston was and is the primary responsibility of the city government.

The mayor accepted his responsibility for public safety and began planning the law enforcement role in implementation in the early spring of 1974.[227/] The Boston Police Department outlined its role in Training Bulletin 74-1, entitled "Implementation of School Desegregation": "The primary mission of the police department will be the maintenance of order and the protection of life and property."[228/] This statement of mission leaves no doubt as to the acceptance by the department of responsibility for public safety. This view is supported by numerous orders of the court.[229/]

[227/] Testimony of Robert Kiley, former deputy mayor, p. 79. See also letter of Kevin H. White to Honorable W. Arthur Garrity, Jr., United States District Court Judge, dated Oct. 7, 1974, p. 3-4.

[228/] Training Bulletin 74-1 "Implementation of School Desegregation," p. [illegible].

[229/] In Morgan v. Hennigan, 379 F. Supp. 410, 477 (D. Mass. 1974), the court clearly held the city defendants responsible for implementation of public school desegregation and "re-effectuation of appropriate remedies." See also Order Joining Kevin H. White, As He Is Mayor, As A Party Defendant, September 30, 1974; Order On Motion To Require Presence And Assistance of United States Marshals, October 9, 1974; and Order On Motion For Relief Concerning Security, December 17, 1974.

F. 32. Public safety was maintained in and around nearly all of Boston's schools during court-ordered school desegregation.

Despite the violence and disorder which occurred in South Boston and Hyde Park, the police maintained public safety throughout the rest of the city. At the height of civil disorder, while petitioning the Federal district court, Mayor White was able to state that in 90 percent of the city the police (before any State police or additional metropolitan district commission police were assigned) were able to maintain both public safety and the orderly implementation of the court's order.[230]

Disorders related to school desegregation tended to occur primarily when school opened and closed, with only scattered disorders at midday and rarely between 6 p.m. and 7 a.m. Although approximately 80 schools were affected by Phase I, serious disorders occurred only at South Boston schools and at Hyde Park, Boston English, and Roslindale High Schools. Violence and significant injury occurred only at South Boston and Hyde Park High Schools.[231]

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[230] Letter, Oct. 7, 1974, p. 2, Mayor White, *supra*.

[231] The Commission was granted access, under the Criminal Offender Record Information Act of Massachusetts, Mass. Gen. L. Ch. 6 §§ 167-178 (Supp. 1975), to police records relating to school-desegregation-related cases (hereafter referred to as Boston school arrest and incident records). The broadest possible scope was given by the Boston Police Department to the concept of "relating to school desegregation" in compiling such records. Though no thorough analysis of the records has yet been accomplished, preliminary review supports the trends noted.

F. 33. The Boston Police Department strategy for Phase I operated effectively in a large part of the city, but its contingency planning, despite intelligence warnings, proved defective.

Early in 1974, the mayor's office, through Deputy Mayor Robert Kiley, began preparations for school desegregation by consulting with officials in such cities as Seattle, Washington; Pontiac, Michigan; and Rochester, New York; to gain perspective from those who had experienced court-ordered school desegregation.[232/] As a result of this consultation and other input, a general law enforcement philosophy was established. Former Deputy Mayor Kiley stated in his testimony:

> In general, our feeling was that police personnel should be deployed in the area, but that they ought not to be particularly visible, because the experience of the last 10 years in complicated urban situations suggests that there are occasions when police can be--the mere presence of police can be provocative. It simply adds an air of excitement and drama that one likes to avoid if there is no occasion to have them present. 233/ [Emphasis added]

This perspective was further reflected in the department's statement of mission contained in its school desegregation training bulletin[234/] and in Boston Police Department Commissioner, Robert J. di Grazia's testimony.[235/]

The Commission agrees with the view that police departments must be cautious in their planning for, and response to, potential disorders to avoid escalating disorder by mere police presence.[236/] The Boston Police Department's decision to deploy only a few uniformed police worked very well in most of the city and in most of the schools.[237/]

[232/] Testimony of Robert Kiley, pp. 79-80.

[233/] P. 83.

[234/] Training Bulletin 74-1, supra.

[235/] P. 1532.

[236/] See Report of the National Advisory Commission on Civil Disorder (March 1, 1968) p. 67 (hereinafter Kerner Report).

[237/] Letter of Kevin H. White to Honorable W. Arthur Garrity, Jr., United States District Court Judge, dated Oct. 7, 1974, pp. 3-4. See also Testimony of Robert J. di Grazia, Police Commissioner, Boston Police Department, p. 1532.

Nonetheless, this law enforcement approach is conditioned upon a decision that "there is no occasion to have them (the police) present." A critical factor in making such a decision is intelligence information. During the summer, the department received intelligence that resistance to school desegregation in certain areas of the city would be massive.[238] Under these circumstances, it cannot be said that there was no occasion to plan for a strong uniformed police presence.[239] The strategy of

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[238] Interviews with Charles Barry, Massachusetts State Secretary of Public Safety, former Deputy Superintendent, Boston Police Department, June 6, 1975, and Joseph Jordan, Superintendent-in-Chief, Boston Police Department, May 27, 1975, by Fred Dorsey and Jack Hartog, Staff Attorneys, USCCR. This available intelligence was either disregarded or determined to be unreliable. Although planning for Phase II includes an intelligence gathering component, there is no assurance that such intelligence will be given the credibility it deserves. The city has submitted its public safety plan for Phase II to the court. *The City of Boston Safety and Police Utilization Plan*, July 30, 1975 (hereafter cited as the Phase II Safety Plan).

[239] Given the level of resistance available and given the anticipated emotional level of key areas like South Boston, disorder was a reasonable projection which required an impressive show of force. *See* Kerner Report, *supra*, pp. 267, 268, and James E. Fisk and Raymond T. Galvin, *A Consultant Report on the Boston Police Department during the 1974-75 School Desegregation, Draft report to the United States Commission on Civil Rights*, June 30, 1975, p. 7 (hereafter cited Fisk and Galvin Draft Report).

James G. Fisk is an adjunct professor in the department of political science at the University of California, Los Angeles, and also a member of the Police Commission of the City of Los Angeles. From 1940 to 1970, Mr. Fisk was a police officer for the City of Los Angeles. He served in every line function in the department and also served in many administrative staff capacities. He retired from the department as deputy chief of police. Professor Fisk has been a consultant for the President's Commission on Campus Unrest, the National Advisory Committee on Criminal Justice Goals and Standards, the National Institute for Law Enforcement and the Administration of Justice, the Territory of Guam, and a number of similar agencies. A more detailed account of Professor Fisk's expertise in the field of law enforcement is provided in his testimony, pp. 1579-80.

Raymond T. Galvin is an associate professor in the school of the administration of justice at University of Missouri, St. Louis. Professor Galvin has taught courses in police administration and the administration of justice for 11 years. He has also served 2 years as an administrative assistant to the Chief of Police of Oakland, California. Professor Galvin has been a consultant for the President's Commission on Campus Unrest,

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minimal police presence which was valid and effective in 90 percent of the city should not have been projected for trouble spots where disorders were likely.

> The prevention of disorder places an affirmative responsibility to design an aggressive strategy and tactics as contrasted to what seems to have been the department's determination not to disrupt what they hoped to be an already existing atmosphere of public order. An aggressive strategy is not by definition violent or forceful, but rather one which makes evident the department's intention to use appropriate and lawful means to prevent disorder. 240/

Anticipated disorder must be confronted with an aggressive and committed police response so that the community is on notice that attempts to create disorder will be suppressed quickly and efficiently and will not be permitted to escalate or spread. The minimal police presence approach which was appropriate for most of Boston should not have been applied to the areas in which trouble was anticipated. As a result of the minimal police presence approach, one projected trouble spot became a problem and affected other areas of the city.241/

(Continued)

the National Commission on Productivity, the President's Commission on Law Enforcement and the Administration of Justice, and other similar agencies. He has also performed numerous research grants in the general area of police administration.

Professors Fisk and Galvin acted as consulting experts in law enforcement during staff investigations of the Boston Police Department. They also co-authored, at the Commission's request, the draft report on the Boston Police Department's efforts during Phase I school desegregation implementation cited above.

240/ Fisk and Galvin Draft Report, p. 8.

241/ Testimony of Robert di Grazia, p. 1534.

The strategy of the Boston Police Department, committed as it was to minimal police presence, appeared to have only one contingency plan--reliance on the tactical patrol force (TPF) to handle any crowd control problems which might occur during Phase I and to meet all other contingencies. 242/ This contingency plan was probably adequate for most of the city. However, because of the TPF's limited size (125 officers), the intensity and geographic diffusion of resistance, and the duration of the conflict, the TPF was not a sufficient force to deal with all of the crowd control problems created in and by that portion of the city which was intensely resisting Phase I implementation. 243/

The Phase I strategy of the department was appropriate for most of the city, but the plan developed from that strategy created problems in areas where there was substantial resistance to school desegregation.

> While the department was correct in its desire not to be the factor precipitating violence and disorder, limiting its written consideration of the situation as it did resulted in an unrealistic plan of action that was reactive, fragmentary, and could be interpreted as equivocal. 244/

The department's leadership and officers did not clearly enunciate their proper role in the use of force for the prevention of disorder. The community, therefore, was not on notice that the Boston Police Department would use lawful coercion to prevent violence.

F. 34. The Boston Police Department assigned an inappropriately low priority to law enforcement activities related to Phase I school desegregation.

242/ Fisk and Galvin Draft Report, *supra*, p. 16.

243/ *See infra* Finding 45, relating to the TPF.

244/ Fisk and Galvin Draft Report, *supra*, p. 9-10.

Early in October, Mayor White requested Federal law enforcement assistance from the Federal district court on the grounds that local law enforcement resources were depleted and public safety was still endangered. 245/ At the same time, the Boston police took the view that no services to the community could be reduced to increase the available personnel, and that no shift change (e.g., from standard 8-hour shifts to 12-hour shifts) to increase personnel on duty was necessary. As Commissioner di Grazia testified:

> I don't see how you can possibly reduce the service and protection that you're providing to a community. We are attempting to increase the number of personnel out in the street all the time. We actually have considerably more than we had out there a few short years ago, even though we have less personnel in the department. 246/
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> * * *
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> As far as the 12-hour shift alternating, certainly we thought of that prior to school starting in '74 and it was discussed quite often in our critique periods after school started, but we felt that implementing it would require too much notice, too much involvement, too much preparation versus, of course, our attempt, really, to reduce the number of personnel involved in busing or Operation Safety as we called it. 247/

245/ Letter of Mayor White, _supra_, p. 2.

246/ P. 1545.

247/ P. 1546. The rationale given for the rejection of 12-hour shifts is a significant indication of the department's unwillingness to reorganize to meet this community emergency. According to Professor Fisk, however, there are police services which can be reduced without significant threat of harm to the community. For example, followup investigation can be accomplished by requesting witnesses to come into the district station to be questioned. This might eliminate a number of house calls and reduce the amount of service vehicles needed. Some offenses may not require on-scene investigation if (a) it is a minor misdemeanor; (b) it is a completed crime with no suspect, no injury, and no physical evidence; (c) it is a completed crime against property only and no physical evidence; or (d) the service is merely followup. Telephone interview with Professor Fisk, July 29, 1975.

Professor Fisk testified on the issue raised by Commissioner di Grazia as follows:

> Part of planning to shift from normal operations to emergency type operations is to assign priorities to everyday kinds of services so that lower priority services can be discontinued. And unless that sort of planning is done, you can't realistically mobilize and deal with an emergency . . . 248/
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> * * *
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> But my experience indicates that an organization can go to 12 hours on and 12 hours off, thus adding 50 percent to your available manpower. Now, that's a minimal increase.
>
> And if you can discontinue low priority services, there can be even a greater increase than that. And, I would suggest that if this department is like many departments I know of, they have not done a job recently of analyzing the services they render and assigning priorities to them. 249/

No such system of priorities existed within the Boston Police Department during Phase I and no provision for such a system is in the department's Phase II safety plan.

The role of the regular police in school desegregation was not perceived as a basic part of the department's "serve and protect" function.

248/ P. 1596.

249/ P. 1597.

The Boston Police Department relied almost exclusively upon the 125-member tactical patrol force[250/] for citizen confrontations arising from school desegregation. Created as a crowd control unit and later expanded to a special anticrime unit, the TPF was assisted in its school desegregation activities by the narcotics and motorcycle units. Almost exclusive reliance by the department on these three highly mobile citywide units allowed nearly all on-duty personnel to be used for "normal" police operations. Commissioner di Grazia testified:

> I think that we have to remember that we still have to continue the everyday operation of the Boston Police Department in providing assistance, as I said before, the service and protection to the community. And we were maintaining that type of an operation while utilizing the most mobile units that we could. [251/]

A consultant to the Commission suggested that this policy may not have been based solely on operational considerations.

> . . . I think there happens to be a political question here, too. (Transcript p. 1595.)

[250/] The TPF represents 5 percent of the 2,500 police officers in the BPD.

[251/] P. 1536. *See also* p. 1520.

> If you say to the public, we're not going to police you because we have to do this other thing, you may be creating more opposition to the alternate program. You've got a desegregation program, you've got a busing program. The program may not be the most popular in the world. You are now going to take away police protection, which is a very important item, and use your manpower to do this... . I think what happened was the decision to go to overtime was a decision that was conditioned by those factors, political and operational. 252 /

Whatever the motivation, it appears clear from the record that school desegregation was not treated as an on-duty, normal police function and did not involve district-level patrolmen policing district level schools as "normal duty." 253/

252/ Testimony of Raymond Galvin, pp. 1595-96.

253/ The police department also viewed its activities related to school desegregation as somehow outside of its normal police function. Professor Galvin testified:

> ...there is a detail arrangement within the contract [collective bargaining agreement for Boston patrolmen] where any private employer wish[ing] to hire people—to use policemen--for these people [off-duty police] to be hired. Those people--the money is paid to the department and the department pays them and there is a roster. There are a number of things which are not classified as regular police duties, and I'm sure desegregation fell into that category, which would automatically under the contract--be considered as an additional function. [p. 1595]

An additional indication of the low priority the Boston Police Department placed on its role during school desegregation was the decision not to involve the department's planning and research unit in school desegregation planning.[254]

> . . . while it may well be true that it possessed very little expertise insofar as operational matters are concerned, it certainly could have assisted the Commissioner and his designated representatives in the development of a planning structure.[255]

F.35. Both the State police and metropolitan district commission police severely limited normal operations and reduced or eliminated low priority services in order to assist the Boston Police Department.

The State police have statewide jurisdiction and police power. The Metropolitan District Commission Police (MDCP) have jurisdiction in a limited number of areas in the State, some of which are within the City of Boston.[256] Although the State police do have limited responsibility to assist local law enforcement agencies in the event of emergencies, most of the assistance which the State police provides is to small rural departments which are understaffed and sometimes undertrained for specific situations. Taken together, the sworn personnel of both these agencies is almost 1,000 persons less than the total number of sworn personnel in the Boston Police Department.[257/]

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[254] Interview with Mark Furstenberg, Director of Planning and Research, Boston Police Department, by Jack Hartog, Staff Attorney, USCCR, Apr. 24 and May 22, 1975.

[255] Fisk and Galvin Draft Report, p. 15.

[256] Staff Report, p. 135-42.

Commission investigation revealed that both the State police and MDCP sharply curtailed activities in other areas of the State in order to provide the Boston police with assistance.[258/] In the case of the State police, some rural areas received far less patrol coverage and low priority services were temporarily discontinued. As the State police role in Boston increased, the State police made overall reductions in its "normal" operations in order to free personnel for duty in Boston.[259/]

Both MDC and State police utilized on-duty personnel where possible to reduce overtime costs, making school desegregation a regular duty assignment. This involved shift changes, duty assignment changes, and changes in geographic assignment for many personnel.[260/] All this occurred in sharp contrast to the Boston Police Department policy of maintaining uninterrupted "normal" services.[261/]

257/ The Boston Police Department in June 1974 had 2,539 police officers. Ibid., p. 121. The State police had approximately 1,000 and the MDCP nearly 600. Ibid., p. 136, 140.

258/ Interviews with Colonel Americo Sousa, Superintendent, Massachusetts State Police, April 9 and 24, 1975, and Laurence J. Carpenter, Superintendent, Police Division, Metropolitan District Commission Police, May 7, 1975, by Fred Dorsey and Jack Hartog, Staff Attorneys, USCCR.

259/ Sousa interviews.

260/ Sousa interviews and Staff Report, *supra*, p. 141, note 314.

261/ Phase II Safety Plan, *supra*, p. 8, provides for commitment of State law enforcement support on a fixed ratio—three Boston police for every State officer—for school desegregation activity.

F. 36. During Phase I the Boston Police Department had no effective emergency mobilization and operation plan for potential disorders including those which might accompany school desegregation.

(a) No standard emergency plan existed for maximum mobilization of personnel and equipment to meet emergencies or prolonged civil disorders.

(b) The Boston Police Department relied on using overtime police officers from a citywide roster to provide for student safety inside schools and on the tactical patrol force to provide for public safety in all serious crowd control situations.

The only written departmental plan drawn or used for police operations during school desegregation was the so-called "safety plan" created primarily by then Deputy Superintendent Paul Russell. [262] That plan concerned bus routes, pick-up points, number of children being bused, number of buses being used, and other similar logistic information and planning.[263] Nothing in that plan dealt with the problem of prevention of disorder or violence. Nothing in that plan established any personnel mobilization procedure or programmed the need and availability of special equipment and facilities for school desegregation activities. The Commission's police consultants described the department's plan as:

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[262] Interview with Philip Marks, Staff Assistant to the Commissioner, Boston Police Department, by Fred Dorsey and Jack Hartog, Staff Attorneys, USCCR, April 7 and 23, 1975. The department's special order on school desegregation (Special Order No. 74-107, Desegregation Policies and Procedures, September 6, 1974) refers to an Alert and Mobilization Manual in relation to mass arrest procedure. This is the only mention of such a manual either in writing or by any department personnel interviewed by USCCR staff.

[263] Boston Police Department document, dated July 15, 1974, titled "State Plan to Reduce Racial Imbalance in the Boston Public Schools Scheduled for Implementation in September 1974."

> . . . a plan tied loosely to an ill-defined low visibility policy, a plan which consisted mainly of meeting local commanders requests for manpower and a general dependence on a small, 125 man, tactical force to meet all contingencies. No detailed master plan seems to have been formulated and only limited information concerning command decisions seems to have reached the lower levels of the department. 264/

The department established a command post of sorts which lasted 1 school day before being abandoned.265/ Police personnel involved in school desegregation continued to carry out their normal assignment responsibility, with school desegregation activities being overtime or an additional duty, depending on rank.266/

264/ Fisk and Galvin Draft Report, p. 16.

265/ Interview with Joseph Jordan, Superintendent-in-Chief, Boston Police Department, by Fred Dorsey and Jack Hartog, Staff Attorneys, USCCR, May 27, 1975, and also Jordan testimony, p. 1498. Superintendent Jordan never referred to the headquarters command location as a command post and, indeed, it did not function as such. However, Professor Fisk indicated his view of the importance of an effective command post:

> When the police action is dispersed over an extended geographical area, and there are multiple events occuring simultaneously some of which are mobile, it becomes mandatory that the person who has overall operational responsibility be in a position to have all pertinent information communicated to him from operational sites so that he can command and coordinate the entire operation. Fisk and Galvin Draft Report, p. 31.

By maintaining normal police services in the districts throughout the school desegregation process (testimony of Commissioner di Grazia, p. 1536 and Jordan interview, supra), by rejecting the possibility of reducing district on-duty strength (Jordan interview, supra), and by retaining without modification the same command structure for normal operations as for desegregation activities (testimony of Chief Jordan, p. 1497), it was unavoidable that all patrolmen would be on overtime and senior officers would be performing additional duty whenever either group was engaged in desegregation activities.

F.37. A history of conflict exists between management and the Boston Police Patrolmen's Association, the Boston police officers' collective bargaining representative--a conflict which had a significant bearing on the department's ability to deal with the problem of Phase I school desegregation.

Since its inception in 1965, the Boston Police Patrolmen's Association (BPPA) has had a history of consistent and intense conflict with Boston police management. After becoming the bargaining representative for all patrolmen below the rank of lieutenant, the association has managed to obtain one of the strongest union agreements anywhere on behalf of police.[267/] One provision of the bargaining agreement provides for a grievance procedure which has been used extensively by the association. In 1974, between 300 and 400 grievances were filed. Of these, 103 were submitted to the American Arbitration Association pursuant to the agreement.[268/] School desegregation activities alone accounted for at least 15 formal grievances filed by BPPA.[269/]

Management viewed the complaints of the association as primarily meritless and designed to harrass the department. Commissioner di Grazia indicates he spent an inordinate amount of time engaged in the grievance process and most grievances were won by management.[270/]

[267/] R.J. Albert, A Time for Reform: A Case Study of the Interaction Between the Commissioner of the Boston Police Department and the Boston Police Patrolmen's Association (January 1974).

[268/] Interview with Chester Broderick, Chairman; John Bilodeau, Vice Chairman; and Frank Magee, Attorney representative, Boston Police Patrolmen's Association, by Paul Alexander, Assistant General Counsel, and Fred Dorsey and Jack Hartog, Staff Attorneys, USCCR, May 5, 1975.

[269/] List of grievances, undated, Marks interview, infra.

[270/] Interview with Commissioner Robert di Grazia, April 3, 1975; interview with Philip Marks, Staff Assistant to the Commissioner, April 7 and 23, 1975; interview with Nicholas Foundas, Legal Advisor, April 7, 1975 (all of the Boston Police Department) by Fred Dorsey and Jack Hartog, Staff Attorneys, USCCR.

> At the center of the debate is di Grazia's contention that the association is engaged in harrassing his plans for reform particularly his need for flexibility in making new assignments to meet ever changing community needs. From their perspective the BPPA sees di Grazia as violating the contract and attempting to return to the old arbitrary and capricious assignment practices. 271/

Whatever the merits of the dispute, this adversary relationship produced a climate which precluded effective cooperation in implementing the department's school desegregation responsibilities. Both sides, management and labor, contend that effective communication is impossible.272/

F. 38. The Boston Police Patrolmen's Association seriously undermined its ability to help implement Phase I by publicly opposing court-ordered desegregation.

The Boston Police Patrolmen's Association has taken at least three actions opposing court-ordered school desegregation in Boston. It opposed the implementation of Phase I through its publication, *Pax Centurion*.273/ It has voted for funds to help finance a legal effort to challenge the decision in *Morgan* v. *Hennigan*.274/ And, it took a full page ad in a publication devoted exclusively to opposing the implementation of court-ordered school desegregation.275/ By its actions, the Boston Police Patrolmen's Association has made its opposition to school desegregation clear to the community.

The effect of that public position is equally clear. No police force can function effectively in crisis situations unless it meticulously

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271/ Fisk and Galvin Draft Report, p. 5.

272/ Interview with Chester Broderick, Chairman, Boston Police Patrolmen's Association, May 5, 1975; interview with Commissioner di Grazia, July 24, 1975.

273/ *See Pax Centurion*, September 1974.

274/ Broderick and Bilodeau interview, *supra*.

275/ Program booklet prepared for Restore Our Alienated Rights, First Annual Convention, May 17-18, 1975.

avoids a position of advocacy directly opposed the law. Referring to the Cairo, Illinois, police department's attempts to deal with racial strife, a situation not unlike Boston school desegregation, the Commission stated:

> Until such time as the police department can operate from a position of absolute neutrality it will never be able to gain the support necessary from all segments of the community for it to function properly and to prevent violations of the law irrespective of where the responsibility lies. A professional law enforcement agency should not choose sides in a dispute, but should enforce the law equally. 276/

This view is not unique to the Commission. The city of Boston, through the office of the mayor, sought to profit from the experiences of other northern cities which had undergone court-ordered school desegregation. 277/ The insight gained from these communities was incorporated in Training Bulletin 74-1:

> Other cities, such as Pontiac, Michigan, and Rochester, New York--which have gone through tense school desegregation situations--have found that the prime concern of the police must be the preservation of the peace, the protection of life and property, and the avoidance of personal involvement in the issue. (Emphasis added) 278/

The violence and disorder which occurred during Phase I should have been met by a firm and public commitment from the BPPA membership to ensure public safety and prevent disorder. Continuing public opposition by BPPA to school desegregation seriously undercuts the membership's ability to fulfill its sworn duty.

276/ U.S. Commission on Civil Rights, Cairo, Illinois: A Symbol of Racial Polarization (1973), p. 12.

277/ Testimony of Robert Kiley, p. 79.

278/ Training Bulletin 74-1, supra, p. 1.

F. 39. *The Boston Police Patrolmen's Association lacked the will to apply Boston's police officers' extensive experience with disorders and demonstrations of the late 1960's to similar problems encountered during school desegregation. The association took the following actions that were inconsistent with its members' responsibility to provide law enforcement support for the school desegregation process:*

(a) *issues relating to officers' legal authority and responsibility were raised by the Boston Police Patrolmen's Association just before the opening of school rather than immediately after the June Federal court order; and,*

(b) *legal issues were raised in a vague manner and had a misleading effect.*

Over 2 months elapsed between the June 21, 1974, court order desegregating Boston schools[279] and the August 30, 1974, association letter to Judge Garrity requesting "clarification" of the police role.[280] Nothing in the letter from Frank Magee required any more information than was known in June 1974; yet the association letter was sent less than 2 weeks before school opened (and less than 1 week before the original scheduled opening).

The letter alleges that patrolmen were confused about their authority during school desegregation and also alleges that no guidance on their responsibility during school desegregation was provided by the department.[281]

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[279] Morgan v. Kerrigan, *supra*.

[280] Letter of Frank Magee, *supra*.

[281] *Ibid*.

However, the letter was based[282] on an association resolution passed as a direct result of two department draft documents that in fact provided most of the "guidance" and "clarification" requested from the court.[283]

The association membership is veteran--it has an average age of 45[284] and extensive experience with demonstrations.[285] It is unlikely that veteran police officers would fail to anticipate important problems concerning a projected police role. It is equally unlikely that such veteran officers would not be well acquainted with applicable State law regarding their authority, responsibility, and duty.

282/ According to Nicholas Foundas (interview, April 7, 1975), near the end of August 1974, the association held a meeting regarding drafts of what became Training Bulletin 74-1 and Special Order 74-107, which drafts were being circulated within the department for comments. These documents contained the proposed guidelines for police conduct and contained the provision:

> All sworn members of the Department shall obey, without delay, any order of a higher ranking officer, whether such order is written or verbal. Special Order No. 74-107, p. 2.

It was resolved by the association that "Superior officers of the Boston Police Department do not have legal authority to order a Boston patrolman to make an arrest." Declaratory Memorandum, supra. The meeting also resulted in the association's directing its attorney to seek clarification of certain issues.

283/ Training Bulletin 74-1, supra, and Special Order No. 74-107, supra.

284/ Staff Report, supra, p. 122.

285/ Interview with Commissioner di Grazia, May 29, 1975.

The BPPA's letter to the Federal district court casts doubts on the association's commitment and good faith. Two of the points raised in the letter involved the authority of the Federal court to supersede the collective bargaining agreement between the association and the department, and the authority of Boston police officers to enforce Federal court orders related to school desegregation.[286]

The first point is no issue at all, since it was never tied to a contractual provision or a department action. BPPA officials conceded that the department could, under the collective bargaining agreement, do virtually anything (i.e., make any operational or logistic decision) as long as it was willing to pay the price.[237] The only real issue is money.

The second point is equally invalid, since it is based on the erroneous contention that court-ordered desegregation required patrolmen to perform acts outside their obligation under State and municipal statutes. The Federal court order did not change the law enforcement responsibilities of Boston police officers. Under State law these officers are required to prevent disturbances in front of schools, prevent persons from stoning buses, provide for student safety to and from schools, and forcibly eject trespassers from municipal property.[288] Citizens violating State laws or municipal ordinances are always subject to arrest or prosecution under those laws regardless of what Federal laws may concurrently be violated (i.e., court orders regulating public protests against school desegregation).

The BPPA membership attempted to avoid the appearance of favoring court-ordered school desegregation by ignoring their law enforcement and public safety responsibilities under State laws. Their real complaint against the Federal court is that the court refused to make public safety during Federal-court-ordered desegregation a matter of exclusively Federal jurisdiction.

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[286] Letter of Frank Magee, *supra*, p. 2.

[287] Broderick interview, *supra*.

[288] Training Bulletin 47-1, *supra*, pp. 2-5.

F. 40. The police department failed to take advantage of input from its patrolmen in planning for school desegregation, either through the Boston Police Patrolmen's Association or individual contact.

The exclusion of patrolmen from the planning process and the failure to inform them adequately of the department's plans was a consistent complaint of the Boston Police Patrolmen's Association.[289] BPPA Chairman Broderick testified to the association's inability to make input into the desegregation planning effort by the department:

> We had been insisting for months that police officers be informed as to pertinent details, as far as deployment. We were concerned primarily with contract violations, and we had hoped that the department would sit down and outline to us what their plans were in the area of deployment, overtime, whatever the case may be, as far as the contact goes.[290]

By excluding the patrolmen from the planning process, the department's failed to obtain the ideas, suggestions, and concerns of rank and file police officers.

This failure of the department's leadership is especially significant in view of the testimony of Detective Frank Olbrys[291] and of Professor Fisk,[292] which indicates that the patrolman in direct contact with the community is the key to maintaining a community's sense of responsibility for maintenance of order. Since patrolmen were not effectively included as an integral part of the Phase I planning process, it is not surprising that the plan "consisted mainly of meeting local commanders' requests for manpower."[293]

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[289] Letter of Frank Magee, supra, and Interview with John Bilodeau, May 5, 1975.

[290] P. 1484.

[291] P. 1476.

[292] P. 1612.

[293] Fisk and Galvin Draft Report, supra, p. 16.

F. 41. Information regarding strategy, role, tactics, deployment, and goals for Phase I school desegregation activity, to the extent such existed, was not communicated effectively to district-level police officers.

The department's instructions and its order relating to school desegregation operations[294] were ineffectively disseminated to patrolmen. This problem was noted by Professor Galvin in his testimony:

> I think the department had every intention of disseminating them, but the people we've talked to indicated they did not get them.[295]

F. 42. The police department did not develop a systematic program to defuse or control organized defiance of Phase I implementation.

Much of the police service performed for the public involves dealing with some kind of interpersonal conflict, and often police officers are required to intervene in such conflicts.[296] In fact, much of a police officer's day-to-day responsibility is conflict management. This role has only recently become recognized as a significant aspect for police.[297] Many police departments have created units to concentrate on programs of conflict management.[298] When conflicts arise involving citizens and government authority, such as during school desegregation, conflict

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294 / Training Bulletin 74-1, supra and Special Order No. 74-107, supra.

295 / P. 1586.

296 / U.S. Department of Justice, Law Enforcement Assistance Administration, National Institute of Law Enforcement and Criminal Justice, Improving Police/Community Relations, by Robert Wasserman, Michael Paul Gardner, and Alana S. Cohen (1973), p. 49 (hereafter cited Improving Police/Community Relations). Much of the data on conflict management was obtained from Robert Wasserman, co-author of Improving Police/Community Relations and Director of Training, Boston Police Department, in a series of staff interviews.

297 / Improving Police/Community Relations, supra, p. 49.

298 / Ibid., P. 52. See also, Interview with Robert Wasserman, Director of Training, Boston Police Department, by Fred Dorsey and Jack Hartog, Staff Attorneys, USCCR, Apr. 18, 1975. Mr. Wasserman has published on the subject of conflict management and was a member of the community assistance group involved in conflict management in Massachusetts in the 1960's.

management becomes even more important to the police officer's role, and "police have great difficulty remaining neutral in such disputes, since they are themselves employed by a governmental agency."[299] The Boston situation was further clouded by the fact that many Boston police officers shared the views of the dissatisfied citizens.

The Boston Police Department is familiar with the concept of conflict management.[300] Former Deputy Superintendent (now secretary of public safety) Charles Barry in his testimony alluded to the work done by the community assistance group of the Massachusetts State Police in connection with the antiwar demonstrations, student disorders, and race-related conflicts of the 1960s.[301] This group worked primarily with local police departments throughout the State.[302] In fact, a member of the group is presently director of training for the Boston Police Department.[303] Despite this background and familiarity with the concept and principles of conflict management and despite the availability of personnel trained in the use of conflict management techniques, the department did not develop a specific conflict management program for use during Phase I.[304]

F. 43. The command communications capability of the police department was inadequate for the emergencies which arose during Phase I.

(a) The Boston Police Department had only two operational radio frequencies on which to control all police activities, including its desegregation activity. No citywide tactical frequency existed on which desegregation activity could be exclusively controlled, and radio broadcasts relating to desegregation competed with all other normal police radio traffic.

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[299] Improving Police/Community Relations, supra, p. 50.

[300] Wasserman interview, supra. The technique of conflict management has been utilized in cooperation with the Boston Police Department to deal with demonstrations in the past.

[301] P. 1505. Although Secretary Barry did not mention the name of the State police unit, since there is no such unit within the department and the community assistance group did operate in the Boston area, it would appear that his reference in the testimony related to these activities.

[302] Improving Police/Community Relations, supra, p. 52.

[303] Wasserman interview, supra.

[304] Ibid.

(b) There was no mobile unit with command post capability equipped to monitor all radio traffic simultaneously.

(c) The Boston police had no command post with equipment and trained staff capable of monitoring, recording, or deploying personnel, or directing operations.

One of the problems faced by the Boston Police Department was that the confrontations with disorderly citizens occurred in many parts of the city, often simultaneously. This dispersion increased the need for centralized control of the total police operation.

> When the police action is dispersed over an extended geographical area, and there are multiple events occurring simultaneously, some of which are mobile, it becomes mandatory that the person who has overall operational responsibility be in a position to have all pertinent information communicated to him from operational sites so that he can command and coordinate the entire operation.[305]

Some of the important elements of an effective command post include adequate radio equipment to monitor and direct all field operations; a separate radio band (tactical frequency) for the specific field operation, to be used by all cooperating agencies; trained personnel to staff the command post; and a tactical manual containing standardized procedures to be used upon activation of the command post.[306]

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[305] Fisk and Galvin Draft Report, supra, pp. 30-31.

[306] Ibid., p. 31. It should be noted that Special Order No. 74-701 refers to an Alert and Mobilization Manual and a Supplement thereto. No other mention of that manual was found and no department staff referred to that manual at any time during any interviews or testimony.

The Boston Police Department operated no such command post during Phase I.[307] Superintendent-in-Chief Jordan attempted to command the overall operation from police headquarters on the first day of school, but from the second day on he was on the street observing, participating in and directing localized operations, and moving from place to place.[308] The only "staff" accompanying Chief Jordan was one civilian aide. Chief Jordan was not in a mobile command post, but in a staff car.[309]

The department used only its existing radio channels during Phase I, neither of which was designated for Phase I coordination. Both channels were used for normal operations--i.e., one channel for within-the-district communications and the other channel for citywide communications. The department did not have a tactical frequency as such.[310] Police school desegregation communications were, therefore, forced to compete with normal police radio traffic.

307/ Professor Fisk who interviewed the commissioner, the superintendent-in-chief, several senior commanders, and other department personnel, testified that:

> From the evidence that I have heard, there was no such central command post during this very difficult period of time. p. 1592.

308/ Testimony of Joseph Jordan, pp. 1497-98; interview with Joseph Jordan, Superintendent-in-Chief, Boston Police Department, May 27, 1975; and interview with Gary Hayes, Administrative Assistant to the Commissioner, by Fred Dorsey, Staff Attorney, USCCR, May 27, 1975.

309/ Hayes interview, supra. Most of the time that Chief Jordan spent "on the street" involved with school desegregation activities Gary Hayes accompanied him. After many rides in a variety of police cars, including marked and unmarked cars as well as command staff cars, Commission staff personnel observed no police vehicle with more than one radio unit. It is considered unlikely that staff cars are equipped for simultaneous multiple channel reception.

310/ Barry interview, supra.

F.44. The police department assumed that ongoing training was adequate and that specialized training programs for school desegregation would not be necessary.

The Boston Police Department did develop some training programs, only two of which were directed to all personnel. The only preparatory effort which was department-wide and related specifically to the law enforcement role in school desegregation was a training bulletin and special order.[311] Unfortunately, these documents were not effectively disseminated.[312] The other training programs consisted of a videotape featuring the commissioner explaining the police role and powers and giving encouragement to the officers to perform professionally; a 3 day lieutenant's seminar on field operations in which the impending school desegregation effort was discussed as well as techniques helpful in supervising officers seeking to prevent and control civil disturbances; and a discussion on crisis intervention during the annual inservice training.[313] The tactical patrol force has extensive crowd control training and receives periodic inservice training.[314] Only the lieutenant's seminar and videotape reached a substantial number of officers.

These minimal training efforts were the result of a departmental policy decision based on four factors:

> The first factor was the limited time available between the June issuing of the Federal desegregation order and the opening of school in September. Second was the department's limited training resources which were already taxed to near capacity. Third, the department believed that due to its experience in dealing with

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[311] Training Bulletin 74-1, supra, and Special Order 74-107, supra.

[312] Testimony of Ramond Galvin, p. 1586.

[313] Fisk and Galvin Draft Report, supra, p. 17-18.

[314] Ibid., p. 18.

> crowds during the Roxbury and student disturbances of the sixties and early seventies it possessed the necessary skills to deal with the possible desegregation disruptions. Fourth and finally, the department saw itself as dealing with virgin territory. Policing a massive desegregation order is relatively new and somewhat unique, and this, along with the "state-of-the-training-art," caused them to wonder what training could be conducted. 315/

Although these factors are clearly worthy of consideration, the basic antipathy of many police officers to school desegregation, the importance of the public safety requirement, and the scope of the law enforcement responsibility should have outweighed those factors:

> Minimally, each officer who was to see service should have been thoroughly briefed on the department's mission and his role in that mission. If he had already received field training in crowd control tactics, he should have been given a refresher course. If he had not received such training he should have been trained extensively. Both the philosophy and mechanics of crowd control should have been discussed. Supervisors who were to be utilized should also have been exposed to such materials with the focus being placed upon their responsibilities. The program that was given to lieutenants might have been provided to all supervisory personnel. 316/

To assure more complete and effective dissemination of training information, both classroom training and roll calls should have been utilized. 317/

F. 45. The tactical patrol force (TPF) is the Boston Police Department's expert crowd control unit, but it is numerically insufficient to handle scattered large scale crowd control problems.

Specifically created to handle crowd control and supplement district forces, 318/ the 125-member tactical patrol force is specially trained in

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315/ *Ibid.*, pp. 16-17.

316/ *Ibid.*, p. 19.

317/ *Ibid.* The Phase II Safety Plan, *supra*, includes such a provision.

318/ Interview with William MacDonald, Acting Captain of the Tactical Patrol Force, by Frederick Dorsey and Jack Hartog, Staff Attorneys, USCCR, May 5, 1975. Captain MacDonald has been a member of the tactical patrol force since 1964 shortly after its inception. He has had FBI (Continued) crowd control techniques. 319/ Starting early in the school year the department relied almost exclusively on the TPF for all crowd control problems, including school-desegregation-related disturbances as well as the usual problems of the city. 320/ Aside from the question of effective utilization of personnel, this decision placed the burden of the department's school desegregation activities primarily on the TPF. Several witnesses described the TPF's activities during this period as strenuous. 321/ The rationale for using the TPF so extensively during Phase I—its crowd control skills—was in fact undercut by its overuse.

> . . .[T]he intensive, physically exhausting use of TPF personnel overlooked a lesson already learned by other police departments during the many confrontations of the 60's and 70's: that physically exhausted policemen tend to also become emotionally exhausted and as a consequence are likely to react emotionally rather than rationally. 322/

(Note 318 continued)

Academy training. In the course of the interview Captain MacDonald indicated a firm attitude about the responsibility of the force to quell disturbances. The TPF saw duty in virtually every spot in the city and was responsible for all civil disturbances, parades, and demonstrations as well as anticrime activity and other regular duties.

319/ Testimony of Joseph Rowan, pp. 1499-1500; testimony of Robert di Grazia, p. 1535; and Fisk and Galvin Draft Report, *supra*, p. 18. In addition to being the sole crowd control unit in the department, the tactical patrol force has been very effectively conducting undercover activity aimed at nighttime street crime. From April to August 1974, the anticrime unit of the tactical patrol force averaged 175 arrests per month. Rowan interview, *supra*.

320/ Testimony of Joseph Rowan, pp. 1500, 1512. *See also* Rowan interviews and MacDonald interview, *supra*.

321/ Letter of Mayor White, *supra*, p. 1; Rowan interviews *supra*.

322/ *Ibid*.

Some TPF members worked 12 to 14 hours a day in overtime.[323] Deputy Superintendent Rowan described them in the midst of their extensive duty:

> Well, the men were tired, but, of course, they have 2 nights off a week and they'd be able to rest somewhat, get some kind of sleep then. We were more or less lenient with the men when they were working the long hours and on a standby in the vehicles, if they dozed off, we didn't find any fault with them. So, they were able to get some little rest that way.[324]

State police forces were required to spell the exhausted and overextended TPF resources.[325] The tactical patrol force is qualified to handle the normal crowd control problems in Boston and still conduct its anticrime activities. However, it was obviously unable to bear the burden of all crowd control in the situation that existed during Phase I.

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[323] Rowan testimony, p. 1513.

[324] *Ibid.*

[325] Rowan interviews, *supra*; MacDonald interviews, *supra*; and Rowan testimony, p. 1513. None of the department personnel pointed directly to the entry of the State police, into South Boston, as necessary to spell the tactical patrol force. However, the letter of Mayor White, *supra*, leaves little doubt as to the importance of an additional group of 300 crowd control trained and disciplined officers.

F. 46. The crowd control problems accompanying school desegregation require department-wide training designed to facilitate a team approach with tight supervision.

a. The traditional skills developed and required for normal police duty involve the almost exclusive exercise of personal judgment by police officers operating independently.

b. The Boston Police Department, as with many organizations, has experienced problems with the quality of performance and the understanding of their role by its midlevel supervisors.

The effectiveness of the tactical patrol force in maintaining crowd control is attributed mainly to close supervision, team work, and good discipline.[326] Few units within the department are perceived as exhibiting the traits of good supervision, team work, and discipline as are the tactical patrol force, the drug unit, and perhaps the motorcycle personnel.[327]

Problems arise when regular Boston police must supplement the tactical patrol force with fairly large numbers of officers. It has been suggested that the tactical patrol force, using 20 to 25 officers (two squads), can handle crowds that 140 regular officers could not control.[328] The problems arise primarily for two reasons--the police team concept is contrary to the normal police situation where officers must use individual judgment; and the supervision and command ability of midlevel and senior supervisors is inadequate. The traditional style of police officers which emphasizes the use of individual discretion is inconsistent with the team policing approach required for effective crowd control.

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[326] Rowan interviews and MacDonald interview, supra.

[327] The units relied upon by the Commissioner were the tactical patrol force, the drug unit, and the motorcycle unit (pp. 1535-36). Since he tried to rely on those units with good supervision and team work, it is reasonable to infer that these three units are generally perceived as meeting those standards. See also Fisk and Galvin Draft Report, p. 13.

[328] Rowan interviews, supra.

> In times of crisis, such as during the school desegregation, it must depart from its day to day informality of an "upside down organization" where policemen in the field make the most important decisions with very little direction, and become militaristic in structure. This requires an organizational shift to a hierarchical chain of command, with authority being clearly delegated and exercised at each level. [329]

That officers usually must act on their own explains the absence of effective supervisors generally[330] and the resistance of officers to the hierarchical structure required to meet crises.[331] The need for effective midlevel supervision was aptly noted by Commissioner di Grazia in his hearing testimony.

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[329] Fisk and Galvin Draft Report, supra, p. 32.

[330] Testimony of Robert di Grazia, pp. 1539-40.

> In the past, I think it's important to point out too, that the so-called first-line or front-line supervisor, the sergeant, in the Boston Police Department did not actually function as a patrol supervisor. He functioned as a crime investigator and, therefore, the men were more or less left to drift by themselves . . . .

[331] The Boston Police Patrolmen's Association in its resolution of August 1974 (referred to in Judge Garrity's declaratory memorandum cited earlier) included the statement "that superior officers of the Boston Police Department do not have the legal authority to order a Boston patrolman to make an arrest." This attitude reflects the traditional role of every officer to make independent judgments in the exercise of his duty and the normal reluctance to relinquish that role and follow unquestioningly the judgment of superior officers.

> Well, not only do we need the personnel, patrol officers who understand what their task is there, but certainly the first-line supervisor and then on up through the ranks. It we don't have that type of quality and quantity supervision, certainly we're going to have some difficulty.
>
> * * *
>
> Unfortunately, and you can't blame any particular individual or individuals, but you have to blame a system, a bureaucratic system, not only in the Boston Police Department, but in government in general, that allows programs to slide and not be developed. Obviously, we need proper supervision and what we're doing is training . . . .[332/]

Much emphasis was placed on the anticipated importance of the department's recently promoted sergeants to the effectiveness of the department.[333/] These sergeants have been subjected to a newly developed, intensive training program which is planned to include all sergeants in the department. [334/]

[332/] pp. 1537-39.

[333/] Testimony of Commissioner di Grazia, pp. 1539-41.

[334/] Phase II Safety Plan, supra, p. 13.

An equally critical problem within the department is its senior command. As occurs in many large organizations, many senior commanders, all of whom have come up through the ranks, apparently have not made the transition from patrolman to executive. They have a tendency to perform basic tasks and/or fail to perform as managers.

> The career command officers of the BPD have moved up through the ranks, with the accompanying change in role and responsibilities. Ideally that upward movement should have been accompanied by a change in perspective from the operational point of view to that of a command sense of responsibility to plan, direct, and coordinate. This transition is difficult. Partially in recognition of this, the military provides for a district officers' corps with different standards for selection, recruitment, education, and training. This is not proposed for the BPD, but it is mandatory that the command officers perceive of themselves as commanders and not as having responsibility for performing operational tasks such as making arrests and directing traffic.

> A significant number of command officers in the BPD have not completed the psychological transition from their previous role to a valid perception of their current role as command officers.
>
> The responsibility for developing these valid perceptions of role and preparing department staff officers to function as commanders rests squarely upon the Commissioner of Police. An executive development program is absolutely indispensable if existing personnel resources are to be used optimally. 335/

The point should be made that at least part of the supervisory problem, according to the Commission's consultants, may be in the commissioner's perception of his personnel.

> The Commissioner's perspective as perceived by these investigators is that an adequately staffed command and supervisory structure does not exist in the BPD. For the purpose of discussion, accepting this assumption as valid does not, however, compel one to believe that the existing capabilities of present incumbents should remain unused and undeveloped. On the contrary, it is likely that a substantial number of these men are likely to be revitalized if given the opportunity and proper encouragement.
>
> Commissioner di Grazia has stated that the appointment of a group of new sergeants will introduce new vitality into the structure. This, however, deals only with one level of the problem. The department's ability to function, even in normal operations, requires that all levels function effectively. 336/

335/ Fisk and Galvin Draft Report, supra, p. 30. The report notes:

> Throughout the study supervisory and command officers were often found to have performed operational tasks. Such activities detract from their true role. Under emergency circumstances any police officer should be ready to take the required action, but only in a true emergency should such a role transfer occur and there only for a brief period of time. Commanders must command if a police department is to succeed in managing complex situations. (Ibid., p. 25.)

336/ Ibid., p. 33.

F. 47. Confusion exists throughout the Boston Police Department concerning the duty, under State law, of municipal police officers to maintain the public safety during Federal-court-ordered school desegregation.

One of the issues continually raised by Boston police officers (but not raised by either the State police or metropolitan district commission police) regards the authority of municipal police officers to enforce Federal law. The BPPA raised the issue to Judge Garrity:

> . . . what action, if any, may be taken by a patrolman against a person who is alleged to be interfering with the carrying out of the court order even though the alleged interference would not appear to be a violation of Massachusetts law or the ordinances of the city of Boston . . . if a person or persons attempt to block the entrance to a school, would this activity be in violation of the Federal court order? 337/

The issue is apparently a problem for senior officers as well as district police officers. In his testimony Deputy Superintendent Joseph Rowan stated:

> Judge Garrity set down certain rules for the people to follow around the schools and we found it was a problem to enforce Federal law. If we had some Federal officers there with us that wanted to take action, we could back them up, but with the absence of the Federal men, we're unable to move some of the crowds. He set a certain distance for people to stay from the schools and we're unable to move--we couldn't enforce Federal law.338/

Both these statements illustrate the confusion over the nature of the Boston Police Department's role in enforcing the Federal court order and the confusion within the department over the substance of the Federal court order concerning security for desegregating schools.

337/ Letter of Frank Magee, supra, p. 2.

338/ Pp. 1527-28.

It was clearly stated by the Federal court in its response[339] to the BPPA inquiry of August 30, 1974,[340] and in the commissioner's training bulletin[341] issued in September 1974, that the Boston Police Department has a continuing obligation under applicable State law to provide for public safety and the security of schoolchildren and school property, independent of any Federal court order. This continuing responsibility, placed on Boston police officers by virtue of their sworn duty to enforce State laws, is in no way modified, impeded, or eliminated by the Federal court decision requiring school desegregation in Boston or by any of the court orders issued to implement that decision.[342]

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[339] Declaratory Memorandum Concerning Peaceful Desegregation, September 10, 1974. (Morgan v. Kerrigan, civil action No. 72-911-G). This memorandum was a direct result of and specifically responsive to the Magee letter of August 30, 1975, and followed 2 days of hearings before the court. The declaratory memorandum answers BPPA questions by referring to the Massachusetts General Laws relating to trespass, arrest powers, criminal complaint procedures, and trespass on public grounds such as schools. The memorandum also cites State statutes requiring police officers to obey the orders of superior officers (another issue raised by BPPA though not included in the Magee letter). The court also ordered that the contents of the declaratory memorandum be disseminated to the BPPA membership.

[340] Letter of Frank Magee, _supra_.

[341] Training Bulletin 74-1, _supra_, pp. 2-10, contains a listing of State statutes which cover behavior that could be anticipated as a result of opposition to court ordered desegregation. This listing gave the statutory citation plus the actual language of the statute as well as policy instructions on enforcement. The bulletin covered such problems as Disturbance of Schools or Assemblies (Chapter 272 section 40); Throwing or Shooting Missiles (Chapter 159 Section 104); False Alarm of Fire (Chapter 269 section 13); False Report of Explosives (Chapter 269 section 14); Disorderly Conduct (Chapter 272 section 53); Trespass (Chapter 266 section 120); Dispersing and Suppressing Unlawful Assembly (Chapter 269 section 1); and Refusing to Depart or to Assist in Suppressing Assembly (Chapter 269 section 2).

Although the commissioner has not issued any document clarifying this issue directly, sufficient data appears in the declaratory memorandum,[343] the department's training bulletin,[344] and the December 17, 1974, Federal court order[345] to eliminate any reasonable question in the mind of any Boston police officer as to his or her duty and authority in respect to school desegregation law enforcement activities. This Commission concludes that such questions are probably more indicative of the apathy or antagonism of many Boston police officers toward the implementation of school desegregation than they are of genuine confusion as to the law.

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[342] For a listing of court orders relating to Morgan v. Hennigan, supra, from June 1974 through April 1975, see Staff Report, Appendix C.

[343] Declaratory Memorandum, supra.

[344] Training Bulletin 74-1, supra.

[345] Order dated Dec. 17, 1974, supra.

F. 48. The Boston Police Department and, to the Commission's knowledge, no other police department had data from which it could develop standards for deciding when, and in what numbers, to deploy police in schools. As a result, decisions to deploy police in schools were made on an ad hoc basis in response to specific crises.

The Commission is unaware of any community other than Boston which has required the use of large numbers of police officers in schools throughout the school year. Boston Police Department decisions on inschool police deployment, therefore, were made without the benefit of any past experience elsewhere.

Police department practice was to put one or two officers, generally the community relations officer and/or the school's juvenile officer, in plain-clothes at each one of the major schools.[346] In two schools, specifically, South Boston High School and Hyde Park High School, large numbers of police in the opinion of school and police officials were required in the schools on a continuing basis throughout nearly all of the school year.

In September, South Boston High began with only one community relations police officer stationed within the building.[347] After the State police arrived in South Boston on October 10, 1974, police were stationed in the halls as needed. Starting in January 1975 South Boston High had metal detectors at its front door, 20 Boston police officers on the main floor, and State police officers staffing 87 stationary posts throughout the building.[348] Hyde Park

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[346] Testimony of Commissioner di Grazia, p. 1542.

[347] Interview with Sergeant James J. Donovan by Fred Dorsey and Jack Hartog, Staff Attorneys, USCCR, Apr. 21, 1975.

[348] Interview with Major Charles Gilligan, Captain Bohdan W. Boluch and Captain Raymond M. Maguire, Massachusetts State Police, by Jack Hartog, Staff Attorney, USCCR, May 2, 1975.

High--the scene of numerous incidents--maintained an average of 85 police officers stationed throughout its facility.[349]

F. 49. Police stationed indefinitely in schools have a negative impact on learning in those schools.

Police and school officials agreed that police should be in school only when absolutely necessary. Superintendent-in-Chief Jordan, agreeing that police should enter schools only as a last alternative, stated:

> I can't conceive, being an instructor myself at the university, how the police visibility inside a school will add to the process of the educational system.[350]

Donald Burgess, acting headmaster at Roslindale High School, after praising the Boston Police Department for their "supportive" actions at his school, testified:

> I do not like the policemen inside the building unless it's absolutely necessary. I have had them in the building approximately five times this year when I felt it necessary to keep the school under control.[351]

A student witness from Burke High School in Roxbury gave his explanation of why police, as much as possible, should be kept out of the schools:

> ...the only thing that upset the Burke about discipline, or any actions about any disruptions, was the bringing of police in the school. And that just totally disrupted everyone in school. They felt nervous; there was a challenge to mess with the police; there was that, "I'm going to get it over the head"; there was the feeling--now what are they doing

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[349] Interview with Deputy Superintendent James J. MacDonald, Boston Police Department, by Fred Dorsey and Jack Hartog, Staff Attorneys, USCCR, Apr. 18, 1975.

[350] P. 1519.

[351] P. 662.

> here? And I don't think that police should be in the schools unless absolutely necessary. I don't think they should show their face in any of the schools at all unless absolutely necessary. Because then you will have more problems than if they weren't there.[352]

Nonetheless, both police and school officials believed that police had to be in both South Boston and Hyde Park High Schools in large numbers throughout the school year in order to preserve safety. The only question arose over how many were needed.[353]

F. 50. The Boston Police Department did not give officers deployed in schools any guidance on their role within the school or their relationship to teachers and administrators.

Due to the Boston Police Department's collective bargaining agreement, which requires the fair and equitable distribution of overtime within the department, and due to the fact that nearly all school desegregation police activity was overtime duty,[354] police officers could not be assigned a fixed school for desegregation duty. Thus, when large numbers of Boston Police Department patrolmen were assigned to South Boston and Hyde Park High Schools, the same officers were not in the same school each day. In addition, the Boston Police Department issued no formal written instructions to these police officers nor to their superiors, even though the department was well aware that the officers possessed no prior training or experience concerning inschool conduct.[355]

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[352] Testimony of Jan Douglas, p. 347.

[353] Gilligan and MacDonald interviews, supra.

[354] Broderick and Bilodeau interviews, supra.

[355] Di Grazia interview, supra, and interview with John Wells, Patrolman, Boston Police Department, by Fred Dorsey and Jack Hartog, Staff Attorneys, USCCR, May 8 and 27, 1975.

F. 51. When police were deployed in schools, some teachers and administrators turned over their traditional and appropriate discipline responsibilities to police personnel.

At the hearing Commissioner di Grazia repeated a police position which Commission staff heard frequently in its interviews with police officers.

> ...we didn't want our presence in there /school/, we felt that what would happen, which did happen eventually, where most of the teachers abdicated their roles as disciplinarians. We didn't want that to happen and it did when we were brought into the school. 356/

Ann Foley, director of the crisis prevention and intervention department of the Boston School Department, presented the teachers' view of the difficulty of police-teacher relations on the issue of discipline and the need for training to meet such situations.

> We had situations this year where a policeman and a teacher suddenly met for the first time in a corridor in a crisis situation. And clearly, in terms of understanding intervention policies or developing intervention strategies, understanding the role of the policeman in the corridor, understanding the role of the teacher versus assistant principal in terms of discipline, we felt that work such as this could be done.. 357/

Much of the inschool police problem could have been eliminated if the police, after consultation with educators, had developed guidelines for officers on what their role and responsibilities were. These guidelines could have been given to teachers so they would have known what to expect of police officers. In addition, the guidelines would have made police behavior more consistent, leading teachers to have more uniform expectations about police conduct.

356/ P. 1542.

357/ Testimony of Ann Foley, p. 188.

F. 52. Some of the difficulties encountered in connection with Phase I implementation were attributable to the failure of the Boston police to provide effective crowd control.

Some residents of Boston, concerned with the protection of schoolchildren, contended that the police department was unable to provide safe travel for students to and from schoo[illegible].[358] These witnesses indicated in their testimony that citizens felt they had to take an active role in protecting children from violence and injury.[359] When the situation is so confused that citizens feel compelled to assume public safety responsiblity, public order is certainly endangered.[360] Much of the problem stems from the inability of police to maintain adequate crowd control, specifically in respect to events such as the incident on the opening day at South Boston High School,[361] the

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[358] Testimony of Percy Wilson, Executive Director, Roxbury Multi-Service Center, p. 221, and testimony of Elma Lewis, Director, Elma Lewis School of Fine Arts and National Center of Afro-American Arts, p. 234.

[359] Ibid.

[360] It is clear from the testimony of Percy Wilson and Elma Lewis (which testimony exemplifies the information gathered in field investigation) that the community, particularly the black community, felt required to attempt to provide public safety because of the expressed inability of the police department to do so. The police view, previously discussed,was a minimal involvement posture exacerbated by an apparent inability to provide safety for schoolchildren.

[361] On the opening day of school a large crowd gathered in front of South Boston High School awaiting the arrival of the black students. The event was covered by some 80 press persons. As the black students attempted to exit the buses to enter the school, a press person surged forward for pictures and interviews, creating a crowd control problem. This is treated as a failure to maintain appropriate crowd control by Professor Fisk, p. 1607 and also Professor Galvin, pp. 1608-09. This incident is also described in some detail in Fisk and Galvin Draft Report, supra pp. 20-21.

"Jean-Louis" incident;[362] and the December 11, 1974, South Boston High incident.[363]

F. 53. The Boston Police Department's arrests growing out of school desegregation activities were not treated seriously by local courts; many cases were either dismissed or continued without a finding.

During Phase I, Boston police did make arrests and pursued prosecutions.[364] There is little doubt that judicial response was less than encouraging for those who did perform aggressive law enforcement. The police commissioner commented on treatment of the offender.

> I don't think that there's—that we're hiding any facts or that anyone is not aware of the fact that if someone from South Boston went into the South Boston /court/ during this time, he was what was called "broomed out," or more technically, continued without a finding.

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[362] The Jean-Louis incident is described in some detail in Fisk and Galvin Draft Report, supra, pp. 14-25, and in the testimony of Charles Barry, pp. 1508-10. As a result of the police department's inability to control and disperse a crowd, a Haitian citizen was severly beaten in midday in a busy intersection of South Boston.

[363] On the morning of December 11, 1974, while the State police presence had been withdrawn from South Boston High School in order to quell a disturbance at Walpole prison, a large and violent crowd of whites gathered at South Boston High School and threatened serious physical harm to black children because of a stabbing which had occurred that morning. No children were injured at that time. This incident is described more graphically and succinctly in the testimony of Elma Lewis, pp. 234-35.

[364] School incident and arrest reports, supra.

> And, of course, the same thing happened if a Roxbury youth or anyone else was sent--was brought into the Roxbury court, the same thing happened.[365]

This kind of law enforcement by the courts undermines the deterrent effect of law enforcement.

> ...the bite of the law really comes in what the court does, and from what I understand, the local courts have not put any bite into the enforcement of the law.[366]

F. 54. Cases which were investigated by the Federal Bureau of Investigation and which resulted in Federal charges being brought normally led to convictions in Federal court.

In contrast to the judicial disposition of the charges brought in State courts against those involved in violations related to school desegregation,[367] the experience in Federal court was quite different. Federal prosecutions for violations related to Boston school desegregation were far more successful. Between September and December 1974, the Federal investigations resulted in 11 prosecutions. There have been five convictions, one acquittal, two dismissals on governmental motion, and three are pending trial.[368]

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[365] Testimony of Commissioner di Grazia, p. 1548. See also interview with Francis Bellotti, Attorney General, Massachusetts, by Fred Dorsey, Jack Hartog and Donald Stocks, Staff Attorneys, USCCR, Apr. 8, 1975, indicating that 45 percent of all busing-related prosecutions were continued without a finding.

[366] Testimony of Fisk, pp. 1599-1600.

[367] See Finding 53, *supra*.

[368] Testimony of Robert Murphy, Chief, Criminal Section, Civil Rights Division, Department of Justice, p 1326.

F. 55. *The law enforcement plan developed by the Boston Police Department for Phase II school desegregation constitutes considerable progress towards insuring student safety and public order this coming fall.*

On July 31, 1975, the Mayor submitted to the Federal district court "The City of Boston Safety and Police Utilization Plan" prepared by the Boston Police Department. This document, which is Boston's Phase II public safety plan, is "the most comprehensive public safety and planning effort ever undertaken in the city of Boston."[369] A product contributed to by all State and Federal law enforcement agencies which have been active in Boston, the plan contains many of the elements necessary for public safety in Boston during Phase II.

As its starting point, the plan notes that Phase II will "require the introduction of public safety resources beyond those of the Boston Police Department."[370] Accordingly, the plan carefully spells out how these various Federal and State law enforcement agencies will coordinate their activities. It states that 1,550 State and local law enforcement personnel will be deployed on the opening day of school, mostly around the high schools[371] and that 600 National Guardsmen will be held in reserve.— Anticipating marches and demonstrations against school desegregation, the plan directs various task forces set up by the plan to "develop a list of alternative sites and streets" which will still maintain the "integrity" of school zones.[373]

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[369] Letter of Mayor Kevin White to Arthur S. Flemming, Chairman, USCCR, dated July 31, 1975.

[370] Phase II Safety Plan, *supra* p. 1.

[371] *Ibid.*, p. 7.

[372] *Ibid.*, p. 10.

[373] *Ibid.*, p. 4.

Where police and school officials must interact to maintain student safety, the plan clearly delineates where police authority and responsibility for student safety begins and ends.[374] The plan also establishes a means to coordinate the intelligence capabilities of the various law enforcement agencies,[375] creates an "operations center" to coordinate the public safety agencies and collect and disseminate all relevant data,[376] and makes provisions for fire and medical emergencies.[377]

Although the Phase II safety plan is comprehensive, it, nonetheless, omit some activities which could improve Boston's public safety effort next fall. Thus, the plan lacks a conflict management component and contains no guidelines for inschool police conduct. Twenty pages in length, the document appears to be a commitment to make further detailed plans rather than the final plan itself. Thus, while the plan commits approximately 800 Boston district police officers to school desegregation, it does not specify from which districts these officers will come, whether they will be organized for effective crowd control, whether they will be commanded by the newly-trained sergeants, and whether the planned "training modules"[378] will be focused on all police officers or just 800. Similarly, although the plan provides guidelines for the dissemination of school desegregation instructions,[379] it does not contain a mission statement, any standards for performance, or guidelines for supervisors.

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[374] Ibid., pp. 15-17.

[375] Ibid., pp. 11-12.

[376] Ibid., p. 18.

[377] Ibid., p. 19.

[378] Ibid., p. 13.

[379] Ibid.

RECOMMENDATIONS

R. 26. The Boston Police Department should devote whatever resources are necessary to refine and then implement its Phase II safety plans.

The "Safety and Police Utilization Plan" for Phase II school desegregation prepared by the Boston Police Department and submitted to the Federal district court is comprehensive and a good first step. The Commission hopes that the following recommendations will be useful to the Boston Police Department in its further planning for Phase II school desegregation.

R. 27. The police commissioner, under the leadership of the mayor, should assume the responsibility for informing the Boston community of the police department's commitment to student and public safety as delineated in its Phase II safety plan submitted on July 31, 1975, to the Federal district court. The community must be made aware that all the law enforcement resources of the State, including the Massachusetts National Guard, will be used, if necessary, in accordance with the Phase II safety plan filed with the court.

a. All community organizations (hostile or friendly to school desegregation) should be identified by the police department and approached to ensure widest participation and greatest possible cooperative effort in maintaining public safety. No community and no community organization should be ignored.

R. 28. In implementing the Phase II safety plan, intelligence reports should be used as the basis for determining in what areas a high or low police visibility strategy should be used.

In a context of emotionalism and in an atmosphere of violence, a low visibility police posture is questionable. The police can no longer presume public order and must ensure adequate planning for the prevention of disorder. Police actions must be well thought out, decisive and aggressive, and based on careful analysis of available intelligence, hoping for the best but planning for the worst.

R. 29. The Boston Police Department should establish clear lines of authority and specific responsibilities for all supervisors engaged in school desegregation activities.

In view of the department's acknowledged problems with the lack of effective supervision, it is important that the duties be specifically assigned and that overall responsibility be placed on one command to achieve accountability. Standards of performance for all personnel must be uniform so that the quality of public safety is not dependent solely on the individual judgment, discretion, or quality of any supervisor.

R. 30. The law enforcement role in school desegregation should be perceived and approached as part of the Boston Police Department's ongoing responsibility for community protection.

The notion of treating the public safety responsibility for student protection as a special duty to be performed by overtime personnel and special units is contrary to the department's duty to uphold and enforce the law. Student and school security is a matter of public safety and community protection, and, therefore, part of the ongoing responsibility of the Boston Police Department. This responsibility may not be abandoned simply because the school department is being made to comply with the U.S. Constitution by order of a Federal court.

R. 31. To ensure maximum availability of police personnel during emergencies at a minimum of cost and disruption of normal service, the police department should:

a. develop an organizational ability to shift from routine police activities to emergency operations;

b. evaluate services normally provided and assign priorities to each service, and;

c. design a program for the temporary reduction of low priority services during emergencies such as prolonged or extensive civil disorders or violence.

R. 32. In addition to the Phase II safety plan already filed with the district court, a department emergency mobilization, deployment, and operations plan should be devised and implemented for Phase II. At a minimum the plan should provide for:

a. restructured shifts to maximize personnel availability and deployment flexibility;

b. temporary discontinuance of low priority services;

c. assignment of a single commander with specific overall responsibility for the emergency operation, who is relieved of all other duties;

d. assignment of other individuals to command emergency operation components such as communications, intelligence, logistic support, legal services, planning and research, personnel assignment, operations, and public relations (such individuals should also be relieved of normal duties where possible).

e. a separate command structure for emergency operations with specified authority and duties for all personnel assigned to the emergency operation;

f. a temporary mobile command post;

g. standards and criteria for requesting assistance from State law enforcement agencies;

h. assignment of midlevel supervisors to act as advisors and to perform liaison and arrest functions for any supplemental law enforcement agency utilized;

i. an emergency system of disseminating information to inhouse personnel;

j. short-term, emergency training, when appropriate, to inform patrolmen (and nondepartmental personnel as nee[illegible] of strategy, tactics, and expectations or special skills and techniques required;

k. mass arest capability and procedures; and

l. periodic exercises for testing and evaluating departmental readiness.

A detailed standardized emergency operations plan is extremely important. Such a plan enables personnel to be fully informed and prepared in the event of emergency.

Certain aspects of any emergency plan are essential. There must be a single operational commander for emergency operations. An emergency operation must be conducted with adequate specialized and trained staff, free to devote the required time to the emergency operation. For purposes of the operation that emergency staff must be accountable only to the emergency operation commander to avoid problems of conflicting supervisory demands. To ensure that continued normal operations do not interfere with emergency operations, the command structure for each should be independent, although both commanders should report to the same supervisor so that incidental conflicts are easily resolved.

The coordinated law enforcement plan involving Boston, State, and MDC police and the National Guard has been developed and submitted to the Federal district court for review and approval. The plan, however, does not obviate the need for an explicit Boston Police Department standard emergency operations plan.

R.33. The Boston police administration should encourage and affirmatively seek input from the BPPA. Such a step would contribute to maximum cooperation from officers. Where there is disagreement, efforts should be made (including judicial clarification) to resolve the issues prior to school opening.

The police commissioner must be responsible for taking the first step in opening effective lines of communication with the BPPA. Clearly, no department policy or program can be successful unless all possible input is sought and unless all information about it is properly disseminated. The BPPA may maintain a stance of noncooperation and noncommunication, but the department must continue to attempt to use the BPPA structure to obtain information from patrolmen and disseminate policy and plans to them. Issues raised by BPPA must be seriously treated, openly confronted, and officially resolved whenever possible.

R. 34. The Boston Police Department should develop a community relations program using both supervisors and patrolmen with emphasis on obtaining citizen support and understanding in order to prevent disorder or violence.

In view of BPPA public opposition to Phase I implementation, it is essential that the department's community relations program involve as many patrolmen as possible to assure the community that the department's public safety commitment is shared by most of its personnel. The community must be convinced that its police officers can be counted on to do their sworn duty.

R. 35. The police department should develop specific plans of action designed to defuse tension and control demonstrations, including negotiations with any group opposed to school desegregation.

The Boston Police Department has personnel with the experience and expertise to design, establish, and operate an effective conflict management program specifically for the department's school desegregation activities. This valuable resource should be utilized.

R. 36. The police department should obtain the necessary equipment to establish a separate tactical radio frequency for disaster or emergency situations. This frequency should be citywide in range and should not interfere with normal radio broadcasts, either within districts or citywide.

The availability of a separate channel for uninterrupted radio communication with all forces and locations involved in police school desegregation activity is basic to any effective emergency operation. Such equipment can probably be obtained through Law Enforcement Assistance Administration funding.

R. 37. The police department should develop a mobile command post that can monitor all frequencies simultaneously. The command post must have facilities, procedures, and trained staff to keep abreast of deployed personnel, available reserves, and the operational status and location of equipment. A tactical manual containing complete standard operating procedures in emergency situations should also be developed.

No commander can effectively monitor a police operation of the geographic scale of Boston school desegregation, deploy personnel and equipment to various locations as needed, keep current on the status of reserve personnel and equipment, coordinate the actions of supporting agencies, and also monitor routine police operations, without a well-staffed and well-equipped command post. Such a command post may be even more critical in September 1975, if the Boston Police Department is required to coordinate the activities of four distinct and autonomous police agencies.

R. 38. The police department should develop training programs for all police personnel (accessible to support agencies), geared specifically to the problems unique to school desegregation. Such programs should include:

a. a profile of law enforcement problems encountered inside and outside schools, derived from an analysis of police incident reports related to school desegregation, and

b. an analysis of crowd control problems, derived from the films of police activity taken by Boston police and by news agencies during Phase I school desegregation.

The department has a fully functioning planning and research division headed by a highly qualified director with extensive police planning and research experience. This office was hardly utilized during Phase I. The expertise of this office should be brought to bear on the department's planning. A program and performance evaluation unit for special department operations should be developed.

R. 39. All sergeants currently in grade should be required, in rotation, to take the newly devised sergeant prepromotional training program in order to improve the quality of midlevel supervision. These sergeants should then be incorporated into the new police teams created for the recently promoted sergeants.

R. 40. District patrolmen should be assigned to teams under the supervision of a sergeant and trained to operate as a team when controlling crowds.

a. These teams should be trained in rotation through an inservice upgrade program in the skills and techniques of the tactical patrol force team approach to crowd control.

b. These teams should be used within their assigned districts to aid the tactical patrol force in emergency situations.

The department also has an innovative director of training. His unit should be more fully utilized in the development of training for Phase II operations. The projected teams should be expanded as soon as feasible. Having committed itself to improving its midlevel supervision, the department should channel full resources to that end. Since the key to good crowd control is tight supervision, utilization of the newly created police teams could be valuable during Phase II as a supplement to the tactical patrol force.

R. 41. The Boston Police Department should request funds from the Law Enforcement Assistance Administration for research relating to police deployment inside public schools, including:

a. an examination of the circumstances in which police should be deployed in schools, and

b. an outline of appropriate inschool police functions.

A review of the Boston and State police officers' experiences in schools will be valuable not only for Boston, but for other communities which may experience similar difficulties. This request should be initiated even though it cannot be processed before school begins.

R. 42. The Boston Police Department should draft and disseminate specific interim instructions on police responsibilities and authority inside and outside the schools, including, at a minimum, student arrest procedures, determination and disposition of unauthorized persons in schools, and the relationship between police officers and teachers or school administrators.

Instructions for deployment in schools should also include, at a minimum, a definition of the officer's purpose and duties with respect to school discipline.

R. 43. Key school personnel and involved community organizations should be familiarized with the appropriate role of police within the school.

As of July 29, 1975, the Boston police still had not undertaken any systematic review or analysis of police inschool conduct. Such an examination is critical if the problems of the past are not to be repeated.

R. 44. When members of the press are on the scene in large numbers, police should establish and maintain perimeters consistent with allowing maximum press coverage of events and minimum interference with the protection of students.

R. 45. The Boston police should exercise their authority to establish effective perimeters at schools or elsewhere to prevent demonstrators from endangering the safety of students and others.

During Phase I activities, crowds were frequently permitted within 50 feet of schools or buses. When police attempted to disperse them or move them back, it was often too late--the crowd was too big to be moved easily. Perimeters should be established far enough from schools and adjacent bus routes so that no substantial threat of injury is posed to students.

3. STATE GOVERNMENT

A. EXECUTIVE BRANCH

FINDINGS

F.56. As chief executive officer of the Commonwealth of Massachusetts, the Governor has responsibility for enforcement of law within the State.

Chapter II, Article I of the Constitution of the Commonwealth of Massachusetts, as originally adopted in 1780, vests supreme executive power in the Governor. [380/] As stated in the preamble to the constitution, the end of government established for the Commonwealth was "to provide for an equitable mode of making laws, as well as for an impartial interpretation, and a faithful execution of them; that every man may, at all times, find his security in them." [381/] That preamble's statement of purpose framed the outline of the three branches of Massachusetts government--legislative, judicial, and executive--and the functions assigned to each. It was clear that the "faithful execution" of the law was then and is today the duty of the State's chief executive.

The supremacy of Federal law over acts of State officers is well settled. [382/] In Massachusetts, conflicts between the Governor and Federal authority in regard to exercise of the Governor's command of State military forces have twice been resolved in favor of Federal supremacy, once by the U.S. Supreme Court. [383/]

[380/] Constitution of the Commonwealth of Massachusetts, Chapter II Article I Section 1.

[381/] *Ibid.*, Preamble.

[382/] Cooper v. Aaron, 358 U.S. 1, 1958).

[383/] Martin v. Mott, 12 Wheat 19, 6 L. Ed. 537 (1827), overruling Opinion of the Justices, 8 Mass. 548 (1812); *see also* Opinion of the Justices, 80 Mass. 614, 14 Gray 614 (1859).

Municipalities and subdivisions of local government under Massachusetts law are creatures of the State. [384/] While this does not relieve local officials of their responsibilities for the maintenance of public order within local jurisdictions, it does impose on the Governor the ultimate responsibility to protect administration of the law. This fixing of responsibility is reflected in the principles which govern the deployment of State police and National Guard units in emergencies. [385/] And it is also reflected in the Governor's power of appointment of key State police and Guard officials. [386/]

Beyond the formal enforcement responsibilities of the Governor lies the critical area of public leadership. The Governor's active and personal role during Phase II school desegregation can greatly strengthen the climate for success, just as the withholding or passivity of that leadership creates a vacuum in which confusion and resistance to law will continue to grow unrestrained by lawful authority.

[384/] Pursuant to Chapter 1, Article 4, Constitution of the Commonwealth of Massachusetts, which confers general legislative powers on the State legislature.

[385/] Mass. Gen. Laws, Ch. 33, governs use of the National Guard "to assist civil authorities in preserving law and order and protecting lives and property." 32 U.S.C. § 102, governs federalization of State Guard units. See also Letter to all State Governors from Robert Kennedy, Attorney General of the United States, Aug. 7, 1967.

[386/] Staff Report, PP. 136-44.

F.57. As principal legal officer of the Commonwealth of Massachusetts, the attorney general can do much to inform the public about the nature and effect of Federal court orders in order to help remove public misunderstanding of the school desegregation orders now in effect in Boston.

Public misinformation and misunderstanding regarding school desegregation has been and is a critical problem in Boston. Among others who mentioned this problem, Mayor White pointed up the severity of this situation. The mayor had visited over 300 homes of parents during the school year to listen to their concerns about desegregation:

> The first thing--the greatest lesson, or shock or surprise, however you define it, born of the coffee hours, was the lack of understanding and knowledge. The incredible confusion. There was--you would anticipate fear, apprehension, suspicion--but total misunderstanding--an example of that would be as late as, oh maybe a month ago, being at coffee hour and having somebody say to me, obviously antagonistically, but--"Why doesn't Governor Dukakis fire Judge Garrity?" That may seem like humor, but it's a deeper, more disturbing illustration of a problem, and that is the public awareness of how this all came about and what it means and what it meant to accomplish. 387/

The job of providing the public more accurate and complete information about desegregation falls on many persons--both public and private. In particular, the State attorney general possesses

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387/ PP. 1184-85.

both a formal law enforcement role and a public leadership role as chief legal officer of the Commonwealth. [388/] In testimony before the Commission, Attorney General Francis Bellotti indicated that he intends to be an active participant in the Phase II desegregation process:

> . . . I see maybe a slightly different, more affirmative role for the attorney general in this Commonwealth, one probably . . . firmer than has been exercised by attorney generals historically throughout the country.
>
> As we get into position--I'm a new attorney general--I have been in office since January 15th of this year, have minimal experience with Phase I of the desegregation order, and am preparing for Phase II . . . I believe that every area of discrimination would ultimately come within the purview of my department. [389/]

The attorney general recognizes several aspects of the Phase II desegregation process which fall directly within his jurisdiction as a State official:

> . . . I intend to, very vigorously and very visibly, enforce the law as it relates to violence, as it relates to the rights of children to become educated . . . I think the safety of children is involved here. We will not--the department of the attorney general--will not tolerate any violence, either inside or outside the school, as we may affect it. And what we have done in this area, just so you know, is we have met with all the local, Federal, and State law enforcement officials that we could to try and help to do the things

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[388/] The State board of education has ultimate responsibility for local school committee compliance with all State laws concerning education; the State board refers cases of noncompliance to the attorney general. Testimony of Secretary of Education, Paul Parks, p. 75; the attorney general also brings suit in State courts to enforce orders of the Massachusetts Commission Against Discrimination. Testimony of Francis Bellotti, Attorney General of Massachusetts, pp. 1280-81.

[389/] Ibid., pp. 1289-90.

> that are necessary to make sure that there is no violence. 390/

Justice Brandeis first articulated the principle that government teaches best by example. The visible actions of the State attorney general are important in improving public understanding of the Federal court's actions in Boston with regard to school desegregation.

F.58. The Massachusetts Commission Against Discrimination (MCAD) is empowered to investigate complaints of discrimination involving education, to issue orders pursuant to such investigation, and to seek court enforcement of these orders. Presently, however, the commission lacks jurisdiction over discriminatory treatment of students in school after desegregation has occurred.

The Massachusetts Commission Against Discrimination, which has enforcement responsibility over State nondiscrimination statutes, played a relatively limited role during Phase I. 391/ An MCAD spokesperson explained at the June hearing:

> Well, the commission, of course, has jurisdiction over employment, public accommodations, housing, and, in the past, education--the admissions--with regard to public schools and other schools.
>
> Presently there is a bill pending in the legislature that will give the commission jurisdiction over not only admissions to the public schools but treatment of the students once they are in the public schools.

390/ *Ibid.*, pp. 1297-98.

391/ The Commission was created under Mass. Gen. L. Ch. 6 §56 and has jurisdiction over laws against discrimination in these areas: employment (Ch. 151B), real estate transactions (Ch. 151B, Ch. 112 and Ch. 184), public accommodations (Ch. 272), and fair educational practices (Ch. 151C). MCAD's powers and functions are set forth under ch. 151B.

> So the fact that the commission's jurisdiction in the past was limited to admissions may also have been a reason why we haven't been more involved in the public school situation in Boston. 392/

Given its existing statutory jurisdiction over discrimination in school admissions, MCAD was able to have some impact. Following hearings on a discrimination complaint, the MCAD on June 22, 1971, found that open enrollment was being administered in a discriminatory fashion in the Boston public schools. 393/ It thereupon issued a cease-and-desist order. This action gave impetus to the creation of the State board of education's 1973 plan--the Phase I plan.

More recently, in a second case, the MCAD found that admission tests being used for the so-called "elite" public schools of Boston (e.g., Latin schools) had not been validated and had the effect of denying admission to black and other minority students. 394/ The MCAD entered into an agreement with the school committee to validate these tests; the school committee also agreed to set aside a certain number of seats in the special schools for minority children, but, according to testimony by the MCAD representative:

> . . . the commission has made attempts after this to follow up on this agreement but unsuccessfully. The school committee has been very uncooperative. 395/

The State attorney general noted that his office has the responsibility to seek enforcement of MACD's orders in court in the event of noncompliance, and that he is prepared to do so. 396/

392/ Testimony of Wallace Sherwood, Commissioner, Massachusetts Commission Against Discrimination. p. 1278.

393/ MCAD ex rel. Underwood v. Boston School Committee, No. EDXIV-1-C, discussed in Staff Report, p. 68.

394/ MCAD ex rel. Upshaw v. Boston School Committee, No. 71-ED-1-C-NO, May 18, 1972.

395/ Testimony of Wallace Sherwood, p. 1279.

RECOMMENDATIONS

R.46. Before school starts, the Governor should make a televised statement assuring the public that the full resources of his office, including the police power of the State, will be used to maintain order and respect for the law. The statement should also appeal to the public to help ensure the safety of all persons involved in school desegregation.

Mr. Justice Frankfurter best stated the crucial role played by State governmental officials during school desegregation.

> That the responsibility of those who exercise the power in a democratic government is not to reflect inflamed public feeling but to help form its understanding, is especially true when they are confronted with a problem like a racially discriminating public school system . . . Compliance with decisions of this court, as the constitutional organ of the supreme law of the land, has often throughout our history, depended on active support by State and local authorities. It presupposes such support. To withhold it . . . precludes the maintenance of our Federal system as we have known and cherished it for one hundred and seventy years. 397/

R.47. Before school begins, the attorney general should publicly inform the citizenry of Massachusetts of the requirements of the law and the measures that must now be taken to bring about their observance.

The initiatives already taken by the attorney general, whose actions can do much to strengthen the resolve of State and local law enforcement officials and to facilitate Federal support as required, provide an important element in the much-needed process of public education. In addition to his personal involvement and example, the

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397/ Cooper v. Aaron 358 U.S. 1, 26 (1958) (Frankfurter J., concurring).

attorney general should assign staff to monitor law enforcement as Phase II progresses; particular attention must be given to vigorous prosecution of arrests made under State laws.

R.48. The Massachusetts Commission Against Discrimination should provide staff to investigate discriminatory treatment of students within Boston public schools, including discipline, suspension, and expulsion of students, maintenance of segregated classrooms, and other complaints by parents or students arising from newly desegregated schools.

The Massachusetts Commission Against Discrimination has remedial power in cases of discriminatory admissions to public schools; its jurisdiction in cases of discriminatory treatment of students in schools is presently limited, pending State legislative action, to a range of informal powers. Increasing evidence shows that, as in other localities, various forms of discrimination persist in Boston's desegregated schools. In the coming legislative session MCAD should actively seek, and the Governor should support, expansion of its jurisdiction in this area.

B. LEGISLATIVE BRANCH

FINDING

F.59. Repeated efforts to amend or repeal the Massachusetts Racial Imbalance Act have the effect of misleading the public by erroneously implying that State legislation can supersede Federal law.

In 1965 the Massachusetts legislature enacted the Racial Imbalance Act [398/] (Mass. Gen. L. Ch. 15 (1965) which requires local school committees to take affirmative action to eliminate racial imbalance, using such techniques as redistricting, pupil reassignment, strategic placement of new schools, and busing. Beginning in 1966, the Boston School Committee sought through litigation and legislation to strike down the racial imbalance law. While the Supreme Judicial Court of Massachusetts upheld the constitutionality of the Racial Imbalance Act in 1973, in May 1974 the State legislature voted to repeal it. Governor Sargent vetoed repeal and submitted his own amendments to the act, which were subsequently passed. [399/] The revised law removed the compulsory aspects of the original but guaranteed blacks the chance to transfer from majority-black schools to white schools in other parts of the city; it also provided for State funding to cover transportation costs of such transfers. [400/] The State law and the litigation based on it became moot with respect to Boston's public schools when the Federal court handed down its decision in Morgan v. Hennigan. [401/] The State plan was "preempted" by the Federal litigation and court order.

[398/] Staff Report, p. 71.

[399/] Chapter 631 of the Acts of 1974.

[400/] Staff Report, p. 71.

[401/] 379 F. Supp. 410 (D.C. Mass., 1974).

Witnesses before the Commission in June of this year testified that State legislators have regularly introduced "repealers" of the racial imbalance law in each of the 10 years of its existence. 402/ Legislators who have introduced or sponsored such repeal legislation appeared before the Commission. When one was asked what the purpose of such repeal legislation would be now that the law has been superseded by Federal order, he stated:

> Hon. Richard Finnigan: I would have to say that in my opinion it wouldn't have any legal bearing. . .
>
> Commission counsel: Mr. Finnigan, on February 14 of 1975 you introduced House Bill 2684 to repeal the racial imbalance law. At that point Judge Garrity had already ruled that the schools of Boston were to be desegregated. What did you intend to accomplish by introducing the bill at that time?
>
> Mr. Finnigan: I had filed the bill strictly to repeal the Racial Imbalance Act. There were, I think, probably 25 bills filed to repeal the Racial Imbalance Act.
>
> Commission counsel: If that bill had passed the legislature, what impact would it have had on the desegregation as ordered by the Federal courts?
>
> Mr. Finnigan: I have no idea . . . Again, I would say that the legislature in repealing the Racial Imbalance Act, I would hope that the Federal courts might take a second look at what is happening in the area of forced busing. 403/

402/ Statement of Hon. Doris Bunte, Chairperson, Massachusetts Legislative Black Caucus, p. 1356.

403/ Ibid., pp. 1357-58. A second legislative witness before the Commission, Hon Raymond Flynn, also introduced three bills on February 14, 1975 (HB-3466, HB-2624, and HB-393) to repeal the racial imbalance law and one bill (HB-3632) to repeal compulsory school attendance in Massachusetts on the same date.

Other legislators testified that the impact of such legislating is harmful:

> . . .I think that every time that the legislature addressed itself to the issue of racial imbalance, and the kind of publicity that comes out as a result of it, the young people in the schools invariably feel the brunt of that--the fallout from those discussions.
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> * * * * *
>
> . . . [A]s far as I can see, the net impact of the discussions that take place in the legislature around the racial imbalance law is to feed the people who are opposed to the desegregation of the schools with additional support which says that, here it is, the people responsible for making the laws of the Commonwealth are opposed to the desegregation of the schools, and, therefore, it gives people the kind of feeling that they can continue to act in opposition to the--Phase I, or to the effort to desegregate the schools. 404/

Another added:

> . . .I would add that it has certainly led to the frustration and to the feeling on the part of youngsters in the school, every time a bill passed the legislature each year that said we would repeal the racial imbalance law, it was like saying to the youngsters, "you have a license--or those people who would not have you in these schools have a license--to see to it that you don't come." It certainly added to the feeling of demoralization on the part of the youth. 405/

The Commission also heard statements from legislative leaders regarding the issue of legislative responsibility--or irresponsibility--

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404/ Testimony of Hon. Mel King, pp. 1355-56.

405/ Testimony of Hon. Doris Bunte, p. 1356.

in perpetuating symbolic but legally meaningless forays against the Racial Imbalance Act:

> In terms of the legislative process, I think it is very clear that the legislature, in my opinion at least, ought to be passing into law bills that would facilitate the desegregation of schools throughout the Commonwealth. That is not what normally happens, however.
>
> * * *
>
> . . .I certainly recognize my responsibility to make my constituents aware to the extent that I can of what the law is both in terms of the State and at the Federal level.
>
> And I think that when we were sworn into office we certainly indicated at that time that we would uphold it. And in my opinion a part of upholding is to see to it that anyone who might not be clear, that you can assist in understanding what it is, you would do that. 406/

Underlying the concern about repeated efforts to amend or abolish the Racial Imbalance law, or other State laws which may impinge on the school desegregation process, is the seriousness with which the U.S. Supreme Court has viewed State legislative efforts to thwart equal protection. In the landmark case of Cooper v. Aaron, 358 U.S. 1 (1958), the Court examined Arkansas State constitutional amendments and statutes which had been passed in direct defiance of federally-ordered school desegregation. In nullifying these State acts, the Court addressed itself to issues which parallel those in the Boston school desegregation situation:

> The controlling legal principles are plain. The command of the 14th Amendment is that no "State" shall deny to any person within its jurisdiction the equal protection of the laws. A State acts by its legislative, its executive, or its judicial authorities. It can act in no other way. The constitutional

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406/ Ibid., pp. 1352, 1359.

> provision, therefore, must mean that no agency of the State, or of the officers or agents by whom its powers are exerted, shall deny to any person within its jurisdiction the equal protection of the laws. . .
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> Every State legislator and executive and judicial officer is solemnly committed by oath taken pursuant to Article VI, clause 3 "to support this Constitution." Chief Justice Taney, speaking for a unanimous Court in 1859 said that this requirement reflected the framers' "anxiety to preserve it (the Constitution) in full force in all its powers and to guard against resistance to or evasion of its authority on the part of a State. . ." (citation omitted)
>
> No State legislator or executive or judicial officer can war against the Constitution without violating his undertaking to support it. 407/

The Court concluded:

> It is, of course, quite true that the responsibility for public education is primarily the concern of the States, but it is equally true that such responsibilities, like all other State activity, must be exercised consistently with Federal constitutional requirements as they apply to State action. 408/

RECOMMENDATION

R.49. State legislators should refrain from further efforts to amend or repeal the Racial Imbalance Act.

407/ 358 U.S. 1, 21-22 (1958).

408/ 358 U.S. 1, 23. (1958).

C. EDUCATION AGENCIES

FINDING

F.60. State pupil attendance laws were not effectively monitored or enforced during Phase I by the State department of education.

Approximately 20,000 students stayed out of public schools last year in Boston, [409/] according to testimony by members of the Boston School Committee and professional staff of the Boston School Department. In Massachusetts pupil attendance requirements are set by State law. [410/]

Commissioner Gregory Anrig of the State department of education testified that while first-line enforcement responsibility rests with the Boston School Committee, [411/] his department has final responsibility for seeing that State attendance laws are enforced. However, the department did not exercise that authority fully during Phase I.

> Vice Chairman Horn: Now, Mr. Anrig, if thousands of students remained out of the Boston schools last year is it unreasonable to believe that the school attendance laws were being violated?
>
> Mr. Anrig: It is not unreasonable to believe that, Mr. Vice Chairman. We have been in regular communication with the Boston school authorities since beginning the period--I believe it was late October. We, by decision--by my own judgment--decided not to take any steps in the opening weeks of school but then, after going on television a number of times and saying that the time had come to proceed

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[409/] Testimony of Kathleen Sullivan, Member, Boston School Committee p. 1053.

[410/] Mass. Gen. L. Ch. 76 § 1, et seq. (Supp. 1975).

[411/] PP. 1285-87.

> on the enforcement of the attendance law, did start to negotiate and communicate with the superintendent of schools...we began to get regular reports from the Boston schools on the number of children who were absent, the reasons for these absences, and actions to be taken accordingly.
>
> * * * *
>
> Vice Chairman Horn: ...did you request an investigation of this situation by any of the regional staff you have in Cambridge, or any of your auditors?
>
> Mr. Anrig: No, we did not, Mr. Vice Chairman . . . It would be within our authority to investigate whether the attendance department, for instance, was carrying out its responsibility. I did not initiate such a study. 412/

Commissioner Anrig went on to testify that it is the prerogative of the State board of education to freeze funds to the city of Boston under Chapter 70 of the Massachusetts general laws if the city refuses to enforce pupil attendance requirements. 413/ He stated that it was also within the board's power to make an "audit exception" for the Boston School Department's attendance department if the latter permitted noncompliance to continue. 414/ Commissioner Anrig added that fund termination would be only an "extreme last resort" and that he would seek court enforcement (through the attorney general's office) first. 415/ The attorney general stated that, in order to strengthen attendance enforcement, he has assigned a full-time, experienced assistant attorney general to work with the commissioner of education during Phase II. 416/

412/ Testimony of Commissioner Anrig, pp. 1285-87.

413/ *Ibid.*, p. 1287.

414/ *Ibid.*

415/ *Ibid.*

416/ Testimony of Francis Bellotti, Attorney General of Massachusetts, p. 1287.

Black leaders believed the enforcement of State pupil attendance laws was not taken seriously enough by State officials during Phase I:

> Commissioner Freeman: Is there any State agency of the State that is responsible for monitoring the accuracy of these [attendance] reports?
>
> Mr. Atkins: Oh, there are a number of agencies that ought to be responsible, but none of them have done it. Early last fall, we asked the State commissioner of education, whose principal responsibility it is to monitor and enforce the State's compulsory attendance laws, to take action in this respect. And at that time he indicated that he thought that, in effect, there would be nothing happening during a symbolic 2-week protest period.
>
> We felt then, and the facts have borne us out, that it was not symbolic, it certainly wasn't going to be 2 weeks, and that like most protest movements that were poorly led, the difficulty is how to get out of a corner into which you painted yourself and the boycott in Boston had that problem. The leadership could not stop the boycott and they quickly lost control of the protest. 417/

417/ Testimony of Thomas Atkins, p. 958.

RECOMMENDATIONS

R.50. The secretary of education should use appropriate administrative and budgetary means to make the department of education enforce pupil attendance laws effectively during Phase II.

The State secretary of education, who reviews and approves policy and budgetary submissions of the department of education, must use those powers to assure that the department does not repeat this year its dilatory enforcement of pupil attendance laws in 1974. The secretary of education should join other key State officials in publicly committing the resources of his office to support of the Phase II desegregation order.

R.51. The commissioner of education has a direct responsibility to enforce pupil attendance laws and should announce to the public, before school opens, the specific program he has for enforcing pupil attendance laws, including the expected cooperation of the Boston School Committee and School Department in such enforcement.

The principal instrument of organized resistance preventing full implementation of Phase I in Boston was the school boycott. The commissioner of education has acknowledged that such a boycott violates State law. Final responsibility for enforcing State pupil attendance laws rests in the State department of education, which has both administrative and legal enforcement powers, the latter through the attorney general. Enforcement of pupil attendance during Phase I was largely ineffectual--a situation which cannot be permitted to continue during Phase II, especially since larger boycotts are threatened. The commissioner of education and the attorney general should be prepared to seek court orders if necessary to obtain cooperation of the Boston School Committee and/or School Department.

D. STATE LAW ENFORCEMENT AGENCIES

FINDINGS

F.61. State law enforcement agencies played a significant role in helping the Boston Police Department maintain public safety during Phase I.

a. State police effectively provided public safety for South Boston High School, the Gavin School, and the Hart-Dean complex, within the extremely hostile and often aggressive community of South Boston.

b. The metropolitan district commission police provided effective route security along bus routes within its delegated responsibility and provided student and school safety for the South Boston High School's "L" Street Annex.

When Mayor White's request for U.S. marshals for South Boston was denied, he was ordered to seek law enforcement assistance from the Governor. 418/ Governor Sargent's response was quick--the following morning 350 State police arrived. 419/ The metropolitan district commission police (MDCP)--which had 33 officers already in South Boston policing areas within the MDCP's jurisdiction 420/--was promptly augmented to more than 100 officers. 421/

The additional police were deployed in South Boston as "assisting agencies" to the Boston Police Department. 422/ Except for a few Boston police officers in the schools, these supplemental agencies assumed full responsibility, at the direction of the Boston Police

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418/ Morgan v. Kerrigan, supra, Order Concerning Law Enforcement, Oct. 9, 1974.

419/ Staff Report, supra, p. 135, n. 307.

420/ Testimony of Laurence J. Carpenter, Superintendent, Police Division, Metropolitan District Commission, p. 1566.

421/ Staff Report, supra, p. 141.

422/ Testimony of Col. Americo Sousa, Deputy Superintendent, Massachusetts State Police, p. 1558.

Department, for all police activity in South Boston related to school desegregation. Commissioner di Grazia, at the hearing, maintained that the Boston Police Department "could have continued to do the job." 423/ The theory behind the request for State and MDC police assistance and the explanation for their success, Commissioner di Grazia testified, was that South Boston residents said that if the tactical patrol force were removed from South Boston, the disturbances would end:

> . . . [W]e [the BPD] recognized that this was an excuse being used by the people who were . . . creating the difficulty, that were trying to immobilize the department . . . so they could really do damage to schools, buses, et cetera.
>
> We recognized that strategy-wise it would be a good move to take almost all of the Boston police officers out of there and put the State police in there and the MDC when we finally obtained their services. And we feel that the strategy worked very well, that because those people wanted to try and show that it was all the Boston Police Department's fault, they remained fairly quiet for some period of time. . . 424/

Whatever the causes of the relative calm in South Boston beginning October 10, 1974, when the new police arrived, there was only one serious incident--on December 11, 1974--during the remainder of the school year in South Boston. And that situation developed while the State police, after an emergency call, were sent to Walpole State Prison to quell a disturbance. 425/

423/ P. 1151.

424/ Ibid.

425/ Testimony of Col. Americo Sousa, pp. 1561-62.

F.62 Both the State police and metropolitan district commission police have incurred substantial costs as a direct result of assistance rendered Boston police in school desegregation. These costs have not been reimbursed, and as a result normal services have been weakened.

In order to provide the assistnace rendered the Boston Police Department throughout the entire school year, the State police, among other things, had to convert to a 12-hour on, 12-hour off schedule, resulting in immense overtime costs estimated at $3 million.[426] Vacations had to be postponed and duties rearranged.[427] Troopers had to be brought in from all over the State, at a cost of additional thousands of dollars for transportation.[428] The total number of State police officers is approximately 1,000[429] and for most of the school year nearly one-third were in South Boston. As a result of their extensive commitment to South Boston, normal State police services were cut back.

The MDCP experienced similar, though less acute, difficulties. After January, the MDCP was able to shift its operations so as not to incur substantial overtime costs.[430] Prior to that, the MDCP incurred costs of $518,000, primarily for overtime.[431] Faced with general financial cutbacks—the MDCP in May had 107 authorized positions for which it had no funds (nearly 20 percent of its total personnel) [432] —the MDCP was hard put to maintain an adequate level of police services.

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[426] *Ibid.*, p. 1564.

[427] Interview with Col. Americo Sousa, and John Kehoe, Commissioner, Massachusetts Department of Public Safety, Apr. 9 and 24, 1975 [hereafter cited as Sousa and Kehoe interviews].

[428] *Ibid.*

[429] Testimony of Col. Americo Sousa, p. 1556.

[430] Interview with Laurence J. Carpenter, superintendent, Metropolitan District Commission Police, May 7, 1975 [hereinafter cited as Carpenter interview].

[431] Testimony of Laurence J. Carpenter, p. 1567.

F.63. National Guardsmen ordinarily are not trained to perform basic police functions.

The Massachusetts National Guard did not actively participate in the Boston school desegregation process during the implementation of Phase I. [433] The Guard was mobilized by the Governor and put on standby status. At that time the mobilized forces received training in handling civil disturbances. [434] The Guard is prepared to play a limited role during Phase II. [435] It is anticipated that the Guard will be used exclusively in nonconfrontation situations. [436] While according to the Massachusetts General Laws, Chapter 33, the Guard has full powers of arrest within the State whenever mobilized by the Governor, [437] it is clear from the testimony that the Guard is not adequately prepared to exercise that power.

> . . . We have the power of arrest. We do not want to exercise it, because of some of the associated problems of appearing as witnesses and the inability of all our people to have knowledge of knowing what to do and how to do it.

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[432] Carpenter interview.

[433] Testimony of Vahan Vartanian, Adjutant General, Massachusetts National Guard, *supra*, p. 1568.

[434] *Ibid*.

[435] Interviews with Vahan Vartanian, Apr. 23 and May 1, 1975.

[436] Testimony of Vahan Vartanian, p. 1575.

[437] *Ibid*., 1573.

> Therefore, part of our planning would be to work in conjunction with the police officer and thus be able to apprehend, hold, and turn over to the policeman the necessary information and evidence as well as the individual should the occasion arise. 438/

438/ *Ibid.*, p. 1574. The National Guard does have a complement of 650 troops classified as military police, many of whom are police officers in civilian life, who may well be quite capable of exercising their powers of arrest. (Vartanian interview, *supra*.)

4. LEADERSHIP OF BOSTON'S PRIVATE SECTOR

A. RELIGIOUS COMMUNITY

FINDINGS

F.64. The leadership of the various groups which comprise the religious community of Boston was not as effective as it could have been in identifying and supporting moral issues confronting Boston during Phase I school desegregation.

F.65. Active personal involvement of some clergy from all religions was a positive factor during the opening weeks of Phase I.

> Every single institution of society bears a part of the burden.
>
> If any portion of society bears the largest part, I would say it is the religious institutions because they claim to teach morals and ethics.
>
> Now the schools certainly should teach morals and ethics. I would rather have them teach living, than making a living. 439/

The role of organized religious leadership during Phase I in Boston could be assessed in terms of the difference between commitment and effectiveness. The commitment of religious leaders cannot be questioned; the record shows, however, that institutionally many things might have been done that were not done by religious leaders to support peaceful and lawful implementation of court-ordered desegregation.

The Catholic Archdiocese of Boston, under the leadership of Humberto Cardinal Medeiros, reaffirmed the position taken earlier by Richard Cardinal Cushing that integration of the races is "morally

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439/ Testimony of Elma Lewis, Director, Elma Lewis School of Fine Arts and National Center of Afro-American Arts, Boston, p. 242.

right and good."[440] In a pastoral letter, the Cardinal specifically endorsed transportation of pupils by bus to achieve integration.[441] The Cardinal also condemned violence at an ecumenical prayer breakfast on October 8, 1974.[442] The board of education of the Catholic Archdiocese restricted transfers from public schools into diocesan schools in 1974.[443] Special seminars for Catholic priests were conducted, beginning in the spring of 1974, to explain the "theological perceptions on the moral correctness of integration," and many of these same priests rode school buses after September with clergy of other faiths.[444]

Actions were also taken within the Protestant and Jewish communities. The Interdenominational Ministerial Alliance, headed by the Rev. William Weeks, conducted biracial training sessions throughout the summer of 1974 and joined in the ecumenical prayer breakfast held just before the opening of school in September.[445] On opening day, 70 ministers were assigned to various schools and, along with Catholic clergy, served as monitors at schools, bus stops, on buses, and within schools as needed.[446] The Massachusetts Council of Churches, according to the Episcopal Bishop of Massachusetts, Rev. John M. Burgess, played a supporting and supplemental role in the same vein. 447/ Support for ecumenical efforts, such as the mass rally for integrated quality education held on the Boston Commons, November 30, 1974, came from many religious figures in Massachusetts, according to Rabbi Roland Gittelsohn of Temple Israel, Boston, one of the organizers of the event. 448/

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[440] Testimony of Humberto Cardinal Medeiros Archbishop of the Catholic Archdiocese of Boston, pp. 463-64. As early as 1965, Cardinal Cushing supported enactment of the Racial Imbalance Act, support which was reaffirmed by Cardinal Medeiros in August 1972.

[441] "Man's Cities and God's Poor," Pastoral Letter, Humberto Cardinal Medeiros, August 1972.

[442] Testimony of Humberto Cardinal Medeiros, p. 747.

[443] Statement of Policy on Adminission of Students from Boston Public Schools, Issued by the Archdiocesan Board of Education, Feb. 26, 1974; reissued Jan. 27, 1975, Exhibit No. 15, p. 475.

[444] Testimony of Humberto Cardinal Medeiros, pp. 465-66. Black leaders commended the role played by priests and other clergy on the streets, testimony of Percy Wilson, p. 220.

[445] Testimony of Rev. William Weeks, pp. 457-58.

[446] Ibid., p. 458.

Religious leaders, themselves, questioned the degree of their own effectiveness during Phase I and pledged greater efforts for Phase II. One development which both points to the failure to act effectively in Phase I and to renewed determination to exert a moral impact on the course of events in Phase II is the "Proclamation on Religious Concern for Desegregation in Boston." This statement was issued by a biracial, multidenominational group of Protestant church leaders in late spring 1975. 449/ One leader described this statement as an effort to move from a "low key" approach last year to one of "definite religious moral leadership" this year. 450/ Another leader spoke of the importance of not waiting for people to appreciate the importance of desegregated education "simply as an act of faith,"

> Moses had great faith, but there is a lot of legislation in the Hebrew scripture. And there's a lot of legislation in Christian faith also. There is canon law, for example. Faith without law becomes very often a matter of pious platitudes...we need law as well as faith, and we need government and civic law also in support of that which is morally correct. 451/

447/ Testimony of Bishop John M. Burgess, p. 461.

448/ Testimony of Rabbi Roland Gittelsohn, Temple Israel, Boston, past president of the Board of Rabbis and the Central Conference of American Rabbis, p. 468.

449/ Testimony of Bishop John Burgess, Exhibit No. 13, p. 462.

450/ Ibid.

451/ Testimony of Rabbi Roland Gittelsohn, pp. 499-500.

RECOMMENDATIONS

R.52. Religious leaders of Boston should make active efforts now to assure that clergy in local churches, parishes, or synagogues are well informed about Phase II, perhaps through symposia designed for that purpose, and that local churches and synagogues serve as models of interracial activity in their respective communities.

R.53. The personal participation and presence of clergy should be expanded during Phase II, both in overall numbers and locations assigned, and should be part of more concerted interfaith organization in Boston.

R.54. Churches and synagogues should voluntarily act as agents for dissemination of accurate information, noting positive aspects of Phase I. Special interfaith committees should be formed to plan for the amplification through pulpits and educational programs of the responsibility of the religious community to uphold moral principles inherent in racial desegregation.

The commitment and dedication of religious leaders, particularly at the neighborhood and community level, can be crucial in creating the environment conducive to racial tolerance. While many clergy of all faiths were actively involved and supportive of Phase I school desegregation, many more were not. As in other areas of private leadership, the religious community of Boston--drawing on a tradition which includes William Ellery Channing, Wendell Phillips, and Richard Cardinal Cushing--must provide strong moral leadership.

B. BUSINESS COMMUNITY

FINDINGS

F.66. *While leaders of the business community supported implementation of the court order, they did not take an active and sustained role in support of constitutionally mandated school desegregation in Boston.*

F.67. *Involvement of the greater Boston business community was limited during Phase I to the Tri-Lateral Task Force program--a program of limited business assistance to individual schools. Although this program was of potential benefit educationally, it did not reach the moral or legal issue of school desegregation.*

F.68. *Business leaders appear increasingly willing to be involved in Phase II because of the stake which business institutions have in the health of Boston's public education system and its relation to employment markets in greater Boston.*

During Phase I Boston's business community defined for itself--and accepted--a supplemental role in a crisis affecting its own interests. Business leaders testified before the Commission that: 1,600 businesses belong to the Greater Boston Chamber of Commerce;[452] approximately 200,000 persons enter Boston daily to work in a city economically dominated by service, banking, and insurance concerns;[453] about 40 percent of the city budget is raised from corporate taxes;[454] about 40 percent of those employed by business live within the city of Boston;[455] about 90 percent of all business leaders live in the suburbs;[456] and, graduates of the Boston school system represent a large part of the labor supply for major area industries.[457]

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[452] Testimony of William F. Chouinard, Executive Vice President, Greater Boston Chamber of Commerce, p. 412.

[453] *Ibid.*

[454] *Ibid.*, p. 413.

[455] *Ibid.*, p. 436.

[456] *Ibid.*, p. 433.

[457] *Ibid.*, p. 412.

On July 1, 1974, representatives of the Greater Boston Chamber of Commerce, the National Alliance of Businessmen, and the Boston School Department met and formed the Tri-Lateral Task Force "to determine those aspects inherent in creating a quality education facility that may require fundamental business support."[458] The task force set as its primary goal the creation of a climate for business-school relations conducive to developing a "quality education system."[459] And it stated:

> ...the task force will work with the school department and the city of Boston to bring about successful implementation of the Federal court desegregation order.[460]

During the school year 1974-75, the Tri-Lateral Task Force was able to establish partnerships between 19 individual companies and as many Boston high schools; these partnerships built on previous contacts between the Boston schools and business in such programs as the flexible campus program, Boston youth motivation, and the career guidance institute,[461] In practical terms, the partnership so far has resulted in increased attention to computer education, practical advice on job applications and interviews, and exposure of high school students to the "world of work."[462]

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[458] Testimony of Robert Lamphere, Vice President, John Hancock Insurance Company and Co-chairman, Tri-Lateral Task Force (now called the Tri-Lateral Council for Quality Education, Inc.), p. 408. Quote is from a Memorandum, July 19, 1974, issued by the Tri-Lateral Task Force, Exhibit No. 10, p. 413.

[459] Memorandum, July 19, 1974, Exhibit No. 10.

[460] Ibid.

[461] Testimony of Robert Lamphere, pp. 409-10. See also Phase II Memorandum of Decisions. Note list of businesses cooperating in this "pairing" program, which is parallel to the higher education pairing program under the Phase II order.

[462] Ibid., pp. 415-16.

After school opened and trouble began in Boston, the business community found it difficult to find its voice on the central issue confronting Boston:

> Commissioner Saltzman: Did the business community exert an influence relative to the moral issues, saying with respect to their own moral leadership, that desegregation is not only the law of the land, but the responsibility of Americans faithful to the Constitution and its implications.
>
> Mr. Lamphere: Well, I think you can read the--you know, the chamber's statement itself--speaks for itself.
>
> I think the consideration, the major consideration of the experts that were here, was "Don't try to preach to the people of Boston"; that to try to preach to them when they didn't like--the majority of them didn't like forced busing--was going to be self-defeating. But if you talk in terms of the safety of children and the need for obeying the orders of the court, that this might carry greater weight than talking about the moral issues of desegregation.
>
> Particularly, I think, as Bill Chouinard said earlier, when you've got the community outside of Boston, which is not under any orders of the court, and it's a little hard to be telling the people in South Boston or Charlestown or East Boston that they're being forced to do something, when your own children are not being forced to do something.
>
> So that's one of the aspects of this that I think convinced people not to try to talk solely about the moral issues, but to talk in terms of the need to obey the law, and the need to see that their children were safe in going to school.
>
> Commissioner Saltzman: As a side comment, I am somewhat dismayed that in the United States of America a moral ideal has to be avoided in a segment of the American community. 463/

463/ Testimony of Robert Lamphere, pp. 433-34.

In defense of their relative silence during the fall of 1974, the business representatives asserted that, in effect, they had been willing to speak out more vigorously but were dissuaded from doing so by Mayor White, who counseled them to avoid making "inflammatory" statements. [464/] Support for the business leaders came from the president of the Boston NAACP in testimony the following day. [465/] And the mayor personally conceded in his testimony that he had not solicited their aid, even after business leaders had indicated to him that they would raise funds to assist him to meet special needs which might arise. [466/] One Commissioner openly doubted, however, that lack of leadership from a mayor really could constitute a sufficient excuse:

> Mr. Chouinard: I'd say somewhat facetiously, Mr. Horn, we're a kind of minority group...I don't think /business/ has maybe the whack and the impact that it might have as many years back as you're referring to. We obviously still have access to the political process, political leaders.
>
> Vice Chairman Horn: ...I think that's what some of the questions my colleagues were leading to, was the influential role, for example, in desegregation in Omaha, which was getting out of hand for a while. One of the leaders of one of the major banks in town convened about 30 of the business leaders in Omaha who did live there, and they made it increasingly clear to the city government, and tried to, to the school board, that they expected certain things to happen for the public peace and the progress of Omaha. And some of these things started happening. And that can still happen in a few cities.

464/ Testimony of William Chouinard, p. 434-35. See City Findings, No. 3.

465/ Testimony of Thomas Atkins, pp. 592-53.

466/ Testimony of Hon. Kevin White, pp. 1199-1201.

> Mr. Chouinard: Not too many though.
>
> Vice Chairman Horn: Well, I agree, and apparently not in Boston... .[467]

The business witnesses said they had no particular plans for Phase II except to continue their general support for quality education in the Boston public schools.[468] They also indicated that, at the time of the hearing, no statement or memorandum comparable to that issued last summer was "in the works" for Phase II.[469] They stated that they did believe that the "future of this city is very much at stake here,"[470] but that ultimately it is not their problem.

> Mr. Chouinard: ...let me answer your questions more directly, Mr. Chairman. It's true that our--the business community has kind of fashioned its role, I guess, in this whole thing, in terms of focusing on quality of education. However, we're well aware of the fact that if Phase II is not an orderly situation, and we do not have the kind of attendance that allows even a quality educational process to survive, that we've got to consider what things we can do in a supplemental fashion. I say "supplemental" because I don't think we frankly see ourselves as one of the major actors in this situation... .[471]

Despite the business community's definition of its role as supplemental, its representatives indicated a willingness at least to consider its contributions:

> I think the major elements of this business community are committed to seeing a solution and a successful implementation brought about of the desegregation plan.
>
> Is it [this commitment] enough? I think that the--I think that's probably the question nearly more before this situation, and we don't think so.[472]

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[467] Testimony of William Chouinard, pp. 448-49.

[468] Testimony of William Chouinard, p. 411.

[469] *Ibid.*, p. 423.

[470] *Ibid.*, p. 427.

[471] *Ibid.*, p. 423.

[472] *Ibid.*, p. 454.

A black community leader, testifying earlier in the hearing, provided another perspective on the obligations of the business community:

> Mr. Patrick Jones: ...As we go into September, I am convinced that the leadership--both the elected leadership as well as the business community leadership--must play a different role.
>
> As I drove here today, it was very interesting to see the number of new buildings that were being constructed in this city. Somebody made some decisions that this city was going to have a new lift, that the skyline was, in fact, going to be different.
>
> Those same people have a responsibility in terms of the viability of this community, the educational and the social viability of this community, to say and to help people who are...in fact law abiding, to implement this particular order. And they need not hide behind the residence question as it related to building construction. 473/

RECOMMENDATIONS

R.55. Involvement of the business community in Phase II should include providing vigorous leadership relative to moral and legal issues involved in school desegregation.

R.56. The business organization base already present in the Tri-Lateral Council for Quality Education should be expanded and strengthened into a business federation, as follows: Active efforts should be made to use the court-recognized partnerships with city schools as a base for further involvement of business with the desegregation process.

473/ Testimony of Patrick Jones, Director, Lena Park Community Development Center, p. 236.

Further, special attention should be given by this citywide federation to organizing business involvement in Phase II at the neighborhood and community level throughout the city.

Following its commitment made in July 1974 to support implementation of the Federal desegregation order in Boston, the Tri-Lateral Council must now move on its own initiative both to inform and involve members of the business community generally in Phase II and to insist that government create and maintain the order and stability necessary for the economic future of Boston. The council should sponsor special meetings and forums on the moral and legal issues involved in school desegregation. A great city cannot grow on racial hatred. Business leaders have done much to bring economic revitalization to Boston; they can do much to make its public educational system a source of civic pride.

C. INSTITUTIONS OF HIGHER EDUCATION

FINDINGS

F.69. Institutions of higher education in the greater Boston area constituted a largely untapped resource during Phase I school desegregation. Contributions to planning desegregation and assistance to the Federal court were, however, made by individuals associated with area colleges and universities.

F.70. As institutions, the colleges and universities generally failed to use their influence, leadership potential, and resources to support legal and moral issues at stake in connection with school desegregation. The leaders of Boston's colleges and universities were remiss in not recognizing their special responsibility as educators to endorse implementation of Phase I.

F.71. Institutions of higher education can make significant contributions to Phase II desegregation.

a. The pairing program under Phase II allows for special contributions involving an emphasis on: reading and communication skills development, crosscultural relations, health-related problems, learning laboratories, social work, career education, and immediate access to physical facilities and cultural activities of colleges and universities.

b. Utilization of teacher training programs to a fuller extent is important in order to provide preservice and multicultural, multiracial and bilingual and inservice training for teachers and to expose them to the needs and problems of urban minorities and the poor.

On January 31, 1975 the Federal district court appointed Robert A. Dentler, dean of the school of education, Boston University, and his associate dean, Marvin Scott, as experts to assist in formulating the Phase II school desegregation plan. [474/] Just over 3 months later, on May 10, 1975, the Phase II plan was issued by the Federal court.

[474/] *Staff Report*, Appendix B, Timetable of Legal Developments.

Among its other features, it embodies a novel design to link as partners 20 major higher educational institutions of Boston with as many city schools.[475] The pairings, which would be formalized under court-sanctioned contracts with the Boston School Department, are to involve participating institutions in the direction and development of curriculum and instruction in both "magnet" and community district schools at all levels—elementary, middle, and high.[476]

With the exception of the court-appointed experts and some pre-existing assistance to magnet schools by colleges and universities, institutions of higher education were not involved in Phase I, although the Boston area has been a center of higher education in America since the founding of Harvard College in 1636.

The Commission subpenaed a panel of witnesses drawn largely from area graduate schools of education which supply many of the teachers for Boston's public schools:

> Chairman Flemming: Do you feel that the higher education community in this area exercised, during Phase I, the kind of leadership that society should expect from the higher education community when dealing with a basic constitutional issue of this kind?
>
> Kenneth Haskins: From my point of view it didn't. It is hard for me to say what the reasons...might be. But certainly there was no forceful statement that came through from the universities as a whole.[477]

Reasons for this absence of institutional leadership varied. Some campuses have yet to come to grips with their own admissions and employment obligations toward minorities and women; [478] on some campuses disagreement exists among faculty or administration about legal and factual issues surrounding school desegregation; [479] and on some campuses little community involvement has occurred in the past that might guide action in the present school crisis. [480] On most area campuses, however, many are aware of the responsibility of the institution to the community and a majority of faculty wishes to become actively involved during Phase II. [481]

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[475] Memorandum of Decision and Remedial Orders, Morgan v. Kerringan (D.C. Mass), Civil Action No. 72-911-G, June 5, 1975, "Institutional Support", p. 50ff. The May 10 Order consisted only of the student desegregation plan, but carried announcement of the higher education pairings.

[476] Ibid., pp. 51-54.

[477] Testimony of Kenneth Haskins, Lecturer in Education, Harvard Graduate School of Education, p. 549.

Unfortunately, following the May 10 announcement of the pairing design for Phase II, none of the 20 colleges and universities involved applied for funds available to assist nonprofit higher education institutions under the Emergency School Aid Act; 2 of the 20 applied under Title IV of the Civil Rights Act of 1964 for training funds--the University of Massachusetts- Boston and Harvard University. [482]

Under the Phase II pairing program Boston's universities and colleges can make unique contributions not just to the success of school desegregation but to the quality of public education--the latter a goal endorsed by virtually every witness before the Commission. The resources of the five colleges and universities that appeared before the Commission demonstrate a wide range of potential services which could be gained for Boston's public schools--from Boston University: reading and communications skills development, cross-cultural relations, mathematics and science skills, counseling, assessment of special needs, training in preventive health and health-related problems; [483] from Northeastern University: diagnostic and remedial work in reading and communication, reading clinics, recreation and physical education, television learning laboratories; [484] from Boston College: social work, nursing, arts and sciences, counseling, special education, and law; [485] from Harvard University: reading, mathematics, career education, public health, medicine, radio training; [486] and from the University of Massachusetts, services similar to those listed from other schools. [487]

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[478] Ibid., p. 520. Also, Testimony of Paul B. Warren, Associate Dean, School of Education, Boston University, p. 526.

[479] Testimony of Kenneth Haskins, p. 550.

[480] Testimony of Ray Martin, Associate Dean, School of Education, Boston College, p. 508.

[481] Testimony of Paul Warren, p. 552.

[482] Testimony of William Logan, Regional Commissioner of Education, Office of Education, U.S. Department of Health, Education, and Welfare, pp. 1129-31. The deadline for applications for ESAA funds was May 16, 1975; whether the responsibility for not applying lay with the institutions or with lack of notice from Federal officials was not determined.

However, in order to provide these services to Boston's public schools, institutions of higher learning must undertake to assess community needs, define and refine the relationship to the district schools, set up rewards and incentives to encourage participation of talented teaching staff in the pairing prgram, locate financial resources, set internal priorities, and develop a will and sense of urgency to cut through normal procedures. [488] As one panelist noted:

> ...a lot of corrective work...has to be done within the universities themselves if they are to really work with schools in a service capacity rather than as using the schools as laboratories or as places to do research and to train their own students, so that some of the work that we will have to do is not just within the schools in Boston, but within the universities in which we work, in order to change the focus to a different approach.[489]

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[483] Testimony of Paul Warren, pp. 510-12.

[484] Testimony of Frank Marsh, Dean, School of Education, Northeastern University, pp. 512-13.

[485] Testimony of Ray Martin, p. 513.

[486] Testimony of Kenneth Haskins, pp. 512-13.

[487] Testimony of James Case, Executive Director, Institute of Learning and Teaching, University of Massachusetts, Boston, p. 515.

[488] Education panel, seriatim.

[489] Testimony of Kenneth Haskins, p. 514.

In light of the extensive amount of work which needs to be done, the executive director of the Institute of Learning and Teaching at the University of Massachusetts, Boston, stated that it is unrealistic to expect the pairing program to be fully operational in less than 3 years--2 at a minimum. [490/] However, the dean of Northeastern University's school of education indicated that facilities and programs now exist that could be utilized if arrangements for access are made:

> I would like to emphasize...that Boston represents ...the richest cultural heritage and legacy...at least one of them, that we have in America.
>
> I believe there are many things that we can do that will not cost money, as long as our expectations are realistic. ...We have playing space in our athletic complex; we have cultural programs on the campus that are not fully attended by our own students such as art programs, music concerts; if we made an effort to make these opportunities available without charge to the young people of Boston, we would be enriching their lives and I think these things do not cost money. [491/]

The teacher training programs of area colleges and universities presently do not require preservice exposure of student teachers to the bilingual, multicultural, and multiracial needs and problems of urban minorities and the poor. [492/] One result of this absence

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[490/] Testimony of James Case, p. 521.

[491/] Testimony of Frank Marsh, pp. 527-28.

[492/] Representatives of each of the five institutions on the panel stated that their schools have no such requirement; Vice Chairman Horn, who is president of California State University, Long Beach, stated that it is a requirement for graduation from the school of education at that institution, p. 530-31.

of exposure is that many talented teaching graduates—about 90 percent at Boston College alone—chose to perform their practice teaching outside the city. Another possible result is that those who have not had such training may find their first job teaching in the inner city an experience for which they are unprepared. 493/ Further, the declining job market for teachers generally has made preservice training, due to the shortage of job openings, a lesser priority. 494/

Inservice training of teachers already on the job (technically known as inservice training recurrent education) is considered very important by educators, in part because of the tight job market. 495/ Leaders of the black community felt strongly in testimony before the Commission that inservice training in human relations should be made mandatory, at once, in the Boston public schools. 496/ Two problems face the universities in mounting an immediate inservice training program of any size: an absence of people in the colleges who can teach cross-cultural sensitivity well; 497/ and the rigidities of the traditional academic incentives structure, which rewards with advancement, tenure, etc. those who perform "scholarly" work over those who perform "field" work. 498/

493/ Testimony of Ray Martin, p. 530; also, testimony of Frank Marsh, pp. 531-32.

494/ Testimony of James Case, pp. 542-43.

495/ *Ibid.*, p. 543.

496/ Testimony of Gloria Joyner, pp. 236-37; also, testimony of Percy Wilson, p. 249.

497/ Testimony of Frank Marsh, p. 544.

498/ Testimony of Paul B. Warren, p. 546.

Despite all the difficulties, Dean Warren of Boston University saw positive values accruing to both the community and the university from the new partnership:

> I think the strongest opportunity rests in the concept of the district in which the universities will be able to concentrate effort within a reasonably restricted area, rather than scattering their seeds throughout the city. I think, too, the councils will build in a form of accountability in which the universities are now public. We have had our projects; we failed; we all know how to bury them so that the ripples are not too large.
>
> In this case, there will be district councils and citywide councils, that universities will be asked the question: How did it go? And they are going to want answers. So I think that in terms of planning, there is going to be a great deal more systematic planning. I think, also, in terms of hiring, that universities are going to be very aware of this being their public window and in a city in which the question is being asked for various other reasons: University, what are you contributing to this city? 499/

RECOMMENDATIONS

R.57. Strong institutional commitment to making school desegregation successful in Boston should be a goal of the leaders of the higher education community of greater Boston.

R.58. The Boston area colleges and universities should use the newly-created, 20-school pairing program as a base to develop better communication among themselves on the issue of community service.

499/ Testimony of Paul B. Warren, pp. 554-55.

R.59. Each college and university should analyze its own admissions and employment posture in terms of equal opportunity and should take all necessary steps to comply with State and Federal laws in this area.

R.60. Meeting the pairing and magnet program responsibilities provided under the Phase II order should receive high priority within Boston's higher education institutions.

a. Internal incentives to encourage maximum involvement of talented teaching, support, and administrative staff, as well as students, should be developed accordingly.

b. In the short term, which includes fall 1975, area universities and colleges should conduct programs to bring city pupils to campuses for use of athletic and cultural facilities and programs, and university personnel should be regularly involved in the "partner" schools through programs and activities.

c. In the longer term, planning and program design should be started immediately to implement programs, such as those set forth in Finding 67(a) among others, in cooperation with school officials.

R.61. Substantial effort should be given, beginning immediately, to develop inservice, multicultural, teacher training for Boston public school personnel.

The Phase II desegregation order of the court has given the Boston educational establishment an opportunity to provide fundamental assistance to the process of school desegregation. How Boston's institutions of higher education respond to this opportunity will have much to do with whether desegregation in fact leads to quality education. The pairing of colleges and universities with city schools is an integral part of the plan set out in the Federal court order and must be given serious attention by the administrations and faculties of these institutions. The leaders of Boston's colleges and universities were remiss in not recognizing their special responsibility as educators to endorse the implementation of Phase I. As the opening of school approaches, they should join other influential persons in Boston in taking those actions which will make successful school desegregation a reality in their city.

D. BOSTON SOCIAL SERVICE AGENCIES

FINDING

F.72. Many social and community service agencies, apparently to protect their standing among their perceived constituencies in white communities, have adopted neutral positions toward Phase I and Phase II school desegregation in Boston. Such neutrality prevents their considerable resources, many of which flow from State or Federal funds, from alleviating a moral, social, and legal crisis or major proportions for the city of Boston. 500/

By contrast, social and community service organizations serving the black community of Boston offered, during Phase I, many examples of constructive planning and action to provide for the security of children in black neigborhoods.

> And where this moral leadership was largely silent from the business, the religious, the social service, the educational institutions...that kind of lack did allow for perhaps, in the community, less cooperation than there might have been.
>
> And I notice that there is a concentration on, in the community agencies represented here today, the safety of the pupil rather than on the active, supportive effort to implement the court order. And perhaps that kind of thing has a self-fulfilling quality to it, because as other witnesses have said, where in the community violence and obstructionism was expected, then people lived up to that expectation. 501/

500/ No analysis is presented concerning the role of avowed "anti-busing" groups such as the South Boston Information Center. Representatives of these organizations refused interviews with Commission staff. When subpenaed, representatives of these groups refused to respond to questions, asserting various constitutional privileges. Proceedings to determine whether to move for judicial enforcement of the subpenas are currently pending.

501/ Comment of Commissioner Murray Saltzman, p. 849.

The attitudes and actions regarding school desegregation of social service agencies serving, respectively, the white and black communities in Boston presented a strong contrast. Many of these agencies derive their program and administrative funds from a "mix" of sources: some directly from Federal agencies, some through "umbrella" organizations such as Action for Boston Community Development (ABCD), some from State agencies, and some from general charitable funds. 502/

Testimony concerning the activities of social service agencies in the white communities of South Boston and Charlestown was presented at the hearing. The director of the South Boston Action Council, which receives Federal funds through ABCD, stated that during Phase I his organization had played no direct role to implement the Federal court order, that its prime responsibility is to provide services through grants it administers, and that in order to provide those services it was necessary to "maintain a status with the community that will not alienate potential clients." 503/

502/ For example, the Kennedy center of Charlestown and the Roxbury Multi-Service Center, Inc., are both recipients of Federal funds through ABCD. The Kennedy center contracts with ABCD for delivery of certain services; the Roxbury center is a "delegate" agency. See interview with John Gardner, Executive Director, John F. Kennedy Center, Charlestown, by Eliot Stanley, Equal Opportunity Specialist, USCCR, Apr. 30, 1975. The United Fund of Boston also provides grants to community service organizations serving white and black neighborhoods.

503/ Testimony of Carl Spence, director, South Boston Action Council, p. 278. The "clients" receive services; they do not purchase them.

The director further testified that the community-based board of the council had specifically discussed whether to take a position regarding school desegregation and decided that it was "in the best interest of the program not to." [504/]

The director of the South Boston Committee of Community Agencies, a coordinating group which includes the South Boston Action Council as well as city agencies such as the youth activities commission, attempted to fashion a liaison role between neighborhood youth and units of the Boston Police Department during the summer of 1974, but discovered when school opened that it was impossible to maintain a low-profile liaison while violence escalated. [505/] He felt, however, that the somewhat undefined role of the community agencies kept the violence which did occur in South Boston at a lower level than it would have been otherwise:

> Problems could have been much more intense, had it not been for the combined efforts of many people within the community....
>
> We do so perhaps in our own quiet private way of simply being those people available to provide services which do help. But to, in a sense, politicize us, which in essence is what would happen, would take us out of that neutral role which we wish to perform, which the agencies have performed for 70 years, for 100 years.
>
> If we do become involved in the--to make that decision in terms of our agencies then become probusing, antibusing, would be a disservice to the community, to all the communities, insofar as the needs do exist which have to be addressed and met. We have to maintain, I believe quite firmly, that there is a value in being neutral in this regard. [506/]

[504/] Ibid., p. 733.

[505/] Testimony of William Hanrahan, director, South Boston Committee of Community Agencies, pp. 738-40.

[506/] Ibid., p. 751.

In Charlestown, where Phase II will have a major effect, the John F. Kennedy Family Services Center, Inc., operates a comprehensive employment, social service, and counseling program with a current annual budget of just under $1 million--70 percent of which comes from Federal funds in the form of either direct or "pass-through" arrangements with State agencies or ABCD. 507/ The center is also one of the principal employers of Charlestown residents and is considered by persons in the small community of Charlestown to be a major impetus for progress.

The director of the Kennedy center, John Gardiner, testified that its community-based board had, like its counterpart in South Boston, voted not to promote school desegregation.

> The position that the board has taken is that basically we will be attempting to develop programs that would ensure the safety of children. ...As far as taking a position on the issue of busing, we have taken the position that we will not take...a position on the issue. 508/

Mr. Gardiner further testified that the center is seeking State funds "to establish programs for (Charlestown) youngsters who may be on the streets...to get them off the streets, to get them out of a situation which is potentially violent or obstructionist." He conceded that developing programs prior to an actual boycott could be interpreted as giving tacit approval to boycott, but testified that that was not the intent of the Kennedy center. 509/ Asked if

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507/ p. 828.

508/ p. 830.

509/ p. 832.

the Kennedy center, or any other Charlestown organization, had to his knowledge developed programs or proposals to provide services for children coming into the community under the Phase II order, Mr. Gardiner stated that he assumed such children would be coming to attend school, not to boycott, and he assumed regular school programs would meet their needs. [510] Mr. Gardiner reiterated his conviction that the Kennedy center had taken a "position of neutrality" in its particular response to the desegregation of schools in that community. [511]

In the black community, social and community agencies felt that they had a direct and urgent responsibility to be involved in desegregation. A joint effort known as the Freedom House Coalition, for which Freedom House, Roxbury, served as the key information and rumor control center, included the Roxbury Multi-Service Center, Inc., and the Lena Park Community Development Corporation, Dorchester. Allied with the coalition were the Elma Lewis School of Fine Arts and the Community Task Force on Education. [512]

The Roxbury Multi-Service Center, Inc., a delegate agency of ABCD which operates many programs similar to its counterpart in

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[510] Ibid., pp. 832-33.

[511] Ibid., 834-35. Similarly, the Boys' Blubs of Boston have adopted a position of neutrality in regard to school desegregation, despite their operation of extensive facilities in Charlestown, South Boston, and Roxbury, which could foster interracial programs this summer--see interview with John Whelan, executive board member, Boys' Clubs, by Eliot Stanley, Equal Opportunity Specialist, USCCR, Apr. 30, 1975. Mr. Whelan stated that while he could not speak for the Boys' Clubs he could see no reason why inter-neighborhood programs could not be continued.

[512] Black leadership panel, pp. 210 et seq.

Charlestown, organized Phase I volunteer cadres which, in concert with people from other community service organizations, formed an "external security system" or "community protection plan," as some called it. [513/] While most of the 100 to 150 volunteers were black, they were assisted by white clergy. [514/] Some of the volunteers conducted "sidewalk sensitivity sessions" outside schools in the black community to persuade black youth to keep calm when tensions rose; other volunteers rode buses to and from schools outside the black community to provide physical protection and psychological reinforcement for black children. [515/]

Another organization, the Community Task Force on Education, initiated a series of biracial "rap sessions" in the spring of 1974 for both parents and students: "It was our feeling that desegregation of schools did not begin and end at the schoolhouse door; that communities had to be involved in that desegregation effort." [516/] The director of the task force testified that during

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[513/] Testimony of Percy Wilson, executive director, Roxbury Multi-Service Center, Inc., pp. 219-20.

[514/] Ibid., p. 220.

[515/] Ibid., pp. 220-21.

[516/] Testimony of Gloria Joyner, director, Community Task Force on Education, p. 225.

Phase I there was no instance of a white student harrassed by black adults in the black communities of Boston, despite incidents between students; she attributed this to the effort made by community organizations and leaders to keep things cool. 517/ At Hyde Park High School, the task force on education helped to organize, under the supervision of trained social workers, small group encounter sessions between black and white students to deal with underlying tensions. 518/

In North Dorchester, Hyde Park, and Roslindale, the Lena Park Community Development Corporation, a multiservice agency funded through public and charitable sources, contributed volunteers to the overall "community protection plan" alongside workers from Roxbury Multi-Service Center. The director expressed the philosophy behind this effort as one of simple reciprocity:

> ... that [community protection] plan simply was an attempt to place volunteers in sensitive spots within the community so as to try to minimize trouble, the possibility of trouble, occurring inside the community with the tacit kind of understanding that if we did that, that perhaps people would have respect for our youngsters in their communities. 519/

517/ *Ibid.*, p. 227.

518/ *Ibid.*, p. 228.

519/ Testimony of Patrick Jones, executive director, Lena Park Community Development Corporation, Dorchester, pp. 229-30.

Black leaders felt strongly that community service organizations which use public funds have public responsibilities:

> I think that no agency in the city of Boston should receive any kind of public funds--and I am using the word "public" not just in the sense of tax dollars, but foundation support, any other kind of support--if those agencies are unwilling to prepare their young people and their community residents at large for support of American policy at home--because that is actually what this is. And if, in fact, we were called upon when segregation was the law of the land, to abide by that law, and we were called upon to be law abiding, I think that all support money should go only to those people who are willing to be law abiding. 520/

RECOMMENDATIONS

R.62. Social and community service organizations in the greater Boston area should develop public information, education, and action programs to assist in the process of school desegregation in Boston. Support services in the client communities, including organizing of parent volunteer efforts at bus stops, meeting medical needs of children in unfamiliar school and neighborhood settings, and providing other kinds of assistance should be a goal of the city's social service organizations.

Phase I school desegregation was most successful where community efforts augmented effective school administration. The two are integrally related to the success of Phase II. Community service

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520/ Testimony of Elma Lewis, director, Elma Lewis School of Fine Arts and National Center on Afro-American Arts, Boston, p. 235.

organizations, particularly those supported by public funds, must serve both their immediate communities and the needs of those schoolchildren--whose parents are not at hand--coming into their communities. Community-based boards of social service agencies should be among the first to recognize this responsibility. Agency professional staffs should design imaginative programs to assure that agency resources are used to aid in implementation of Phase II. A spirit of constructive reciprocity among social agencies should guide programs devised through citywide meetings held before school begins.

E. MEDIA

FINDING

F.73. National television coverage of desegregation events in Boston, particularly incidents of violence during fall 1974, engendered a widespread feeling in that community that reporting had been sensationalized and thereby distorted. The Boston Community Media Council made a constructive effort to consider and plan the local media's institutional role during Phase I.

> ...a word needs to be said about the role of the news media. While the media, especially the print media, made a valiant effort to give a full and nonsensational coverage of the desegregation process, in too many instances subsequent to the period of September and October, the negative situation and violence were given coverage to the exclusion--absolute exclusion--of the many positive activities which were being carried out...
>
> And this did make many of the parent and community groups feel that their positive activities were isolated and atypical, in a situation which was overwhelmingly hostile. This in part accounted for severe depression among many community groups in the early weeks of desegregation. We felt deserted by the Federal Government, unassisted by political leaders, and unrelated to our fellow citizens, and this could be directly attributed to the news media. 521/

Although the Commission did not have a panel of media witnesses, the role of the media during the first year of school desegregation in Boston figured prominently in the statements of many persons appearing before the Commission. It is not necessary to belabor the pervasive effects and importance of print and broadcast news coverage in our daily lives. In a previous report, the Commission found:

521/ Testimony of Dr. Erna Ballantine Bryant, p. 359.

> ...the way in which school officials, civic leaders, and the news media respond to disruptive incidents can serve either to preserve an atmosphere of calm or heighten tension even more. In most cases, local news media have provided excellent support to desegregation and have served to inform the public and allay fears. Incidents in school, however, make for good stories and sometimes local media have taken a minor scuffle and blown it up to the proportions of a major riot... 522/

The Boston Community Media Council (BCMC) made an effort to consider and plan, in advance of school's opening last fall, what the role of news media should be. 523/ This effort, which included some controversial meetings held in summer 1974 between the council and representatives of Mayor White's office, 524/ consisted essentially of training sessions:

> The briefings at times emphasized the obvious: the importance of checking out rumors and tips, the need to be inconspicuous and to stand back from any outbreaks to avoid the appearance of encouraging them. The television people weighed the use of film reports, which could be edited to provide an overall sense of perspective, rather than live remotes; the

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522/ School Desegregation in Ten Communities, supra p. 3.

523/ "Looking Back on Busing Coverage," by Edwin Diamond, Boston Phoenix, Mar. 11, 1975 (reprinted from the Columbia Journalism Review, p. 7. The Boston Community Media Council, composed of both print and broadcast news management personnel, is a biracial organization which grew out of racial disorders in Boston during the 1960s.

524/ Interview with Gene Lowthery, General Manager, WEEI-AM radio, Apr. 22, 1975; interview with Robert Healy, Executive Editor, Boston Globe, Apr. 10, 1975; and testimony of Robert Kiley, former Deputy Mayor, City of Boston, pp. 88, 118-19.

> newspaper people stressed the importance of avoiding code words or inflammatory descriptions ("cruel," "savage," or "brutal") in their copy. A 13-point "Memo To All Hands on the Boston School Opening," by Thomas Winship, the editor of The Boston Globe, repeated some of these basic training lessons. 525/

As a result of the BCMC planning meetings, the headlines in Boston's two major dailies, the Boston Globe and the Boston Herald American initially followed a low-key approach when school opened; later, when violence accelerated toward the end of September and early October, the local newspapers intensified their coverage of events while still attempting to avoid what they considered sensationalism. 526/ The Boston Globe was awarded the Pulitizer Prize in 1975 for its coverage of the school desegregation crisis. By the end of October, the BCMC "plan" had been largely abandoned by the local media, and each station or newspaper pursued an independent course of action for the rest of the year. 527/

The role of the broadcast media, particularly television, and the contrast between local and national network coverage, concerned many witnesses appearing before the Commission. Characteristic of the majority view was this assessment by the State secretary of education:

525/ Diamond, "Looking Back on Busing Coverage," supra.

526/ Ibid. The author reports that Time Magazine in its Sept. 30, 1974, issue stated that despite a well-intentioned agreement between the press and Mayor White to "play it cool," the press "in its desire to avoid provocative excesses. . .came perilously close to a kind of news management that can distort coverage just as surely as sensationalism."

527/ Interview with James Rowe, News Director, WILD-AM, radio, Boston, Apr. 17, 1975.

> It was important that the issue got covered. By and large we had worked out with the city, at least, a relationship with the press so that everybody knew what we were about and the press was very cooperative. And I have to applaud the press, the Boston press. Even looking at their coverage, the coverage they had was a very honest and balanced kind of coverage.
>
> Unfortunately some of the national press coming in, when they did things that showed Boston nationally, many times they weren't scrutinizing as carefully as the local press and maybe that was because of the fact that our relationship with the local press had started early last summer and we had the pressroom set up.
>
> There was a way to check on the stories so that stories that weren't properly approved or couched in the right terms wouldn't go out for public consumption. 528/

Former Deputy Mayor Robert Kiley put it this way:

> The essential difference between the national media, particularly television, and the local media, I believe, is that a complex situation has to be telescoped into a maximum 90 seconds' presentation over a national network, and you don't sell automobiles by having the desultory aspect of these activities.
>
> So my sense is that the national media must go toward the sensational, the easily photographed, the dramatic. And as a consequence, I would say that probably doesn't add up to be balanced coverage, and it probably did have an effect on the emotional climate of the city. 529/

528/ Testimony of Massachusetts Secretary of Education Paul Parks, p. 44.

529/ P. 118.

The general manager of the CBS-owned radio station in Boston stated that network staff were unprepared, without any briefings or background on the Boston situation, to cover the violence in proper perspective, and that increased use of local media people in network teams would lessen this "occupational" problem. 530/

The minority view--that national coverage was more accurate because it had not been party to the kind of conscious planning undertaken by local media--was stated by the president of the Boston NAACP:

> I feel personally that the media stepped out of its role, and because of that, it did not perform well. ...I remember and I compare what I saw here with what I saw in 1964 in Mississippi, when I spent the summer there. There, the local media by agreement would not cover anything that they considered to be unfavorable to Jackson or to the State of Mississippi. The national media did what they did everywhere else. They would come in and if something was happening, they'd shoot it...
>
> So there was this great contrast between the local media and the national media...I saw that kind of contrast last year in Boston. The motivation was different, but the effect was the same. And I think that people in a city such as this are best served when most accurately informed. People cannot make informed judgments if they are not informed... 531/

530/ Lowthery interview, supra.

531/ Testimony of Thomas Atkins, pp. 961-62.

Witnesses opposed to busing also were dissatisfied with news coverage:

> Vice-Chairman Horn: What is your impression of the coverage of desegregation by the Boston newspapers and television media from your point of view? Do you feel your side got its story adequately told...?
>
> Ms. Maureen Costello: ...As someone who was against forced busing and against any kind of violence, I still didn't feel that our side was adequately told. I think that things were covered up that probably should have come out. If things weren't going as smoothly as they should have been, then it should have come out in the papers. I think that the news media should have been more honest.
>
> Vice-Chairman Horn: How about the national news shows on Boston?
>
> Ms. Costello: Oh, I think that they... depicted Boston as being a racist city which I do not think it is.
>
> Vice-Chairman Horn: What would you have shown if you had been producing the show to reflect the situation?
>
> Ms. Costello: Perhaps I would have gone into an overcrowded middle school and shown the lack of facilities and lack of educational materials, lack of safety, lack of personnel, safety personnel. And just maybe the overcrowdedness and what these schools had to offer, or not to offer the children. 532/

532/ Testimony of Maureen Costello, former Chairperson, Concerned Citizens of Roslindale; Member, Board of Directors, Massachusetts Citizens Aganist Forced Busing, pp. 580-82.

RECOMMENDATION

R.63. Careful review and evaluation of the news media's role in Boston during 1974 should be made, possibly by an industry standards group or school of journalism, to guide media policy in Boston during Phase II. Such a review should include study of coordination between local and national media.

Somewhere between the poles of governmental intrusion into its first amendment protections and locally self-imposed news management, the media must seek to evaluate and improve upon the role it played during Phase I. This can best be accomplished by an outside evaluation conducted by the news industry itself, including examination of pertinent sections of the official record of the Commission's Boston hearing.

The Commission is concerned that the frequently dramatic aspects of violence and disruption can be emphasized to the exclusion of the more positive, but quieter, progress that often occurs in the process of desegregation.

5 FEDERAL GOVERNMENT

A. FEDERAL EXECUTIVE BRANCH

FINDINGS

F.74. The Federal executive branch has the responsibility to provide leadership bringing together Federal, State, and local resources in such a manner as to implement the constitutional mandate to desegregate the Nation's public school systems.

Such a Federal leadership role by no means relieves State and local officials of their constitutional duty to desegregate public schools.

Passage of the Civil Rights Act of 1964 [533] committed the executive branch of the Federal Government to carry out the constitutional mandate decreed 10 years earlier by the Supreme Court of the United States in Brown v. Board of Education [534]--the elimination of segregated education. This and other Federal civil rights and education laws enacted thereafter have provided the executive branch with the tools it requires to implement the *Brown* desegregation order. Thus, various agencies of the Federal executive branch have the responsibility, authority, and resources to:

— investigate whether school districts are complying with the constitutional mandate for desegregation;

-- assist in the development of plans for desegregation;

— plan, finance in part, and monitor programs designed to prevent or deal with problems which accompany the implementation of desegregation plans;

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[533] 42 U.S.C. § 2000c (1970).

[534] 347 U.S. 483 (1954).

-- introduce a process of continuous mediation in communities to deal with the stresses and strains of desegregation in such a manner as to result in the integration of public school systems;

-- apply sanctions in connection with the enforcement of desegregation plans required by the executive branch of the Federal Government or ordered by the courts;

-- prosecute those who conspire to obstruct justice by trying to prevent the implementation of desegregation orders.

It must not be forgotten, however, that the primary responsibility for actually desegregating the schools rests upon the shoulders of State and local officials, particularly the members of local educational bodies. Opinions of the Supreme Court clearly assign the creation and implementation of school desegregation plans to State and local authorities. [535] Only after consistent failure or opposition by those charged with operating the local school system--for example, continued refusal to submit a workable desegregation plan--is the assumption of such responsibility by any Federal body warranted. The leadership role of the Federal Government is not to replace local authority, but to bring together State and local governmental and nongovernmental resources which will facilitate school desegregation.

Failure to utilize these tools, especially in the face of resistance, makes the Federal executive branch's commitment to school desegregation appear equivocal. Federal officials must provide consistent and coordinated leadership which will encourage and, if necessary, compel States and localities to do what they are constitutionally required to do--desegregate this Nation's public schools.

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[535] Brown v. Board of Education (II), 349 U.S. 294 (1955).

F.75. The Federal executive branch during Phase I failed to provide leadership in explaining and supporting both the Federal district court's decision that the Boston School Committee had intentionally segregated Boston's public schools and the court's order requiring school desegregation.

As subsequent findings of this report show, various Federal agencies were involved in school desegregation in Boston. The Department of Helath, Education, and Welfare (HEW) initiated enforcement proceedings against Boston and, in general, endeavored to channel education funds to Boston. The Department of Justice (DOJ) in October sent a battery of Civil Rights Division attorneys to investigate suspected criminal activities. The Community Relations Service (CRS), another division of the Department of Justice, committed its limited personnel to Boston both to mediate disputes and monitor the Phase I plan.

These Federal activities, however, shared two characteristics: they were reactive, rather than active, and they were uncoordinated.

President Ford, in response to a question at an October 9, 1974, news conference, made a statement concerning Boston's school desegregation process:

> Q. Mr. President, Boston's Mayor White has appealed to the Federal government to send U.S. marshals to help restore order in Boston's school desegregation crisis. And black groups have asked for federalizing the National Guard and sending in Federal troops. As the Chief Executive, what do you plan to do and what comments do you have on this situation?
>
> A. At the outset, I wish to make it very, very direct. I deplore violence that I have read about and seen on television. I think that's most unfortunate.
>
> I would like to add this, however. The court decision in that case, in my judgment, was not the best solution to quality education in Boston. I have consistently opposed forced busing to achieve racial balance as a solution to quality education.

> And, therefore, I respectfully disagree with the Judge's order. But having said that, I think it is of maximum importance that the citizens of Boston respect the law and I hope and trust that it's not necessary to call in Federal officials or Federal law enforcement agencies.
>
> Now, the marshals, if my information is accurate, are under the jurisdiction of the court, not directly under my jurisdiction.
>
> As far as I know, no specific request has come to me for any Federal involvement and therefore I'm not in a position to act under those circumstances. 536/

The President, according to his press secretary, was "speaking philosophically," and his comments were consistent "with his long-held views."537/

Two days after his original statement, the President, responding to a request from Senator Edward Brooke of Massachusetts,538/ taped a 30-second, voice-only message for those Boston radio and television stations that requested it. The President's taped comments follow:

> Boston is a fine, proud city, the cradle of liberty where many of the freedoms that we all so cherish today in this country were born 200 years ago. The people of Boston share a tradition of reason, fairness and responsibility for the rights of others. Now, in a difficult period for all of you, it is a time to reflect on all that your city means to you; to react in the finest tradition of your city's people. It is up to you, every one of you; every parent, child to reject violence of any kind in your city; to reject hatred and the shrill voices of the violent few. I know that nothing is more important to you than the safety of the children of Boston and only your calm and thoughtful action

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536/ Boston Globe, Oct. 11, 1974.

537/ Boston Globe, Oct. 13, 1974.

538/ Edward W. Brooke, United States Senator, letter to President Gerald R. Frod, Oct. 10, 1974.

> now can guarantee that safety. I know that you will all work together for that goal and have one more thing to be proud of in the cradle of liberty.

The impact of the President's statement in Boston was significant.[539/] A member of the Commission's Massachusetts Advisory Committee stated:

> We felt deserted by the Federal Government, unassisted by political leaders... 540/

A black community leader linked the President's statement to the atmosphere in Boston:

> Commission counsel: What, in your opinion, were the significant factors that led to the negative and violent response to school desegregation in Boston?
>
> Percy Wilson: Well, in my opinion, it was: One, the climate set by the President of the United States when he made his statement that he was not in favor of the order.... 541/

Mayor White was also extremely critical of the impact of the President's statement. A press statement released by Mayor White's Office in summary stated:

> The Mayor criticized President Ford in strong terms, accusing him of undercutting the credibility of Judge Garrity's court decrees.
>
> He stated that the President's remarks encouraged resistance to the law and that Boston was being "taunted" to become another Little Rock.

539/ The President's statement at his news conference is subject to substantive criticism; for example: "Forced busing to achieve racial balance" was not what the Federal district court had ordered. The court had found constitutionally impermissible segregation in the Boston schools and had ordered steps to eliminate this constitutional infirmity.

540/ Testimony, Dr. Erna Ballantine Bryant, p. 358.

541/ P. 223. The president of Boston NAACP also severely criticized the President's remarks.

> He contrasted President Ford's conduct with that of Presidents Eisenhower and Kennedy in school desegregation crises, and said that no President had ever previously interfered with enforcement of Federal law. [542]

Two Federal mechanisms exist in the region which are available to provide leadership and coordination. Yet neither were utilized to facilitate school desegregation in a meaningful manner. The Federal Regional Council of New England (FRC), established in 1970, consists of the regional heads of nine Federal agencies which operate programs in the area of human resources. Its purpose is to coordinate the various programs of the member agencies. [543] The Federal Executive Board (FEB) is composed of the approximately 120 leaders of all Federal regional offices in the Boston metropolitan area. Like the Federal Regional Council, the Federal Executive Board also seeks to coordinate the activities of Federal agencies. [544]

The FRC's school desegregation activity for the 1974-75 school year consisted of one special executive session in October 1974 for informational purposes for its members. [545] The FEB, on the initiative of its chairman, was prepared to use a Federal emergency phone system to alert Federal employees if disorders affected their ability to get to or from work. [546/] The FEB also conducted a volunteer tutor program, whereby nearly 30 Federal employees were given administrative leave to tutor students who had returned to school after a prolonged absence. [547/]

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[542] Press Statement of Mayor White, Oct. 10, 1974.

[543] Testimony of David Hays, Chairman, Federal Regional Council, p. 1153. The Federal Regional Council is comprised of the Departments of Transportation; Labor; Health, Education, and Welfare; Interior; Agriculture; and Housing and Urban Development; the Office of Economic Opportunity; the Environmental Protection Agency; and the Law Enforcement Assistance Administration.

[544] Testimony of William Gibson, Chairman, Federal Executive Board, pp. 1156-57.

[545] Testimony of David Hays, pp. 1154-55.

In sum, the lack of initiative by most Federal agencies, the President's equivocal support for the order of the Federal district court, and the absence of a coordinated Federal strategy all serve to bolster the opponents of school desegregation.

RECOMMENDATIONS

R.64. The President should publicly support and affirm the Federal Government's commitment to eliminate unconstitutional school segregation.

R.65. The evidence presented at the Commission's June 16-20, 1975, hearing in Boston reinforces the Commission recommendation, first made on January 9, 1975, that the President issue an Executive Order which will:

(a) Set as a Presidential goal the pooling of all Federal responsibilities, authorities, and resources in order to effect the strongest possible Federal support for the constitutional mandate to desegregate our public schools.

(b) Require the prompt application of all available sanctions in support of determinations calling for the desegregation of schools by either the executive branch of the Federal Government or the courts.

(c) Assign responsibility to an appropriate Federal official to develop and execute, in the name of the President, an action program designed to achieve the Presidential goal.

[546/] Testimony of William Gibson, p. 1158.

[547/] *Ibid.*, pp. 1158-63.

The Commission repeats now what it said on January 9, 1975, in a letter to President Ford:

> The Federal Government has both a moral and legal obligation to utilize its authority and resources in concert. This calls for a Government-wide strategy and a Government-wide plan to implement the strategy whenever the need arises. Such a strategy and plan do not now exist. As a people, we are paying a severe penalty in Boston and in other communities for the failure to develop a nationwide understanding that the Federal Government has made an unequivocal commitment to desegregate our schools.
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> * * *
>
> [I]t is essential that during the process of moving from a segregated to a desegregated public school system in a given community, there be a Federal presence which makes clear an irrevocable Federal commitment to the enforcement of the 14th amendment in the field of education. Without such a presence, backed by such a commitment, the opponents of desegregation will accelerate their activities. Without such a presence, backed by such a commitment, it will be impossible to marshal State, local, or private sector resources in an effective manner.

R.66. The President should instruct the Director of the Office of Management and Budget to direct the Federal Executive Board in Boston and in the Federal Regional Council for New England to work with Boston School Department staff, State and local officials, private organizations, and community leaders in order to provide the maximum possible Federal support for school desegregation in Boston. This Federal Joint Task Force should be charged with undertaking at a minimum the following tasks:

(a) Determine the technical assistance and the amount of Federal funds and resources, including those available for traditional educational programs, in order to facilitate and strengthen the process of school desegregation.

(b) Develop a program under which Federal employees in the Boston area will be given the opportunity and the incentive to volunteer their services to the Boston community to facilitate the process of school desegregation.

(c) Prepare and distribute to all Federal employees, and to the public, materials explaining the Federal district court's findings of intentional school segregation by the Boston School Committee; the legal and moral responsibility of State and local officials to remedy this violation of constitutional rights; the Federal Government's unequivocal commitment to implement constitutionally mandated school desegregation; and the activities of the Federal Joint Task Force.

(d) Develop a program in which the heads of all Federal agencies in the New England region shall be directed to discuss with all supervisors in their agencies, and all such supervisors shall be directed to discuss with all employees, each agency's obligation and opportunity to facilitate school desegregation in Boston.

B. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE (HEW)

FINDINGS

F.76. Boston has recieved all Federal education funds for which it has been eligible. Boston received Federal education funds in fiscal year 1975 totaling approximately $13 million, an amount which would have been greater but for the intentional acts of segregation by the Boston School Committee which made Boston ineligible for new Federal funds until late in 1974. In fiscal year 1976, an estimated $14 million will be allocated.

F.77. HEW's Office for Civil Rights, although its findings of discrimination are now superseded by Morgan v. Hennigan,[548] still retains very broad authority and responsibility to determine whether racial-ethnic discrimination is occurring within Boston's public schools.

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[548] 379 F. Supp. 410 (D. Mass., 1974).

The review of the Boston public school system by HEW's Office for Civil Rights (OCR) started in 1970 and resulted in the termination of new funding in 1972. This Title VI enforcement proceeding, however, was extremely narrow in scope, focusing principally upon how the segregated structure of Boston's middle schools caused *de jure* discrimination. Had there been no Federal litigation such as *Morgan* v. *Hennigan*,[549] a large percentage of Boston's schools would remain segregated despite the successful Title VI enforcement action. As this Commission has observed elsewhere, OCR has moved away from such sharply restricted reviews.[550]

OCR acknowledges that *Morgan* v. *Hennigan* does not end its antidiscrimination responsibilities in Boston's schools.[551] OCR must still investigate all forms of discrimination against minority students--from discriminatory allocation of school resources to discriminatory assignment of minority students to classes for the educable mentally retarded--and report its findings to the Federal district court.

A critical issue for which OCR has investigatory responsibility involves student discipline. According to OCR's Regional Director for Boston, John Bynoe, past OCR investigations in Boston have raised the question of disparate discipline of minority and nonminority students.[552] Additional questions not mentioned in the court order also fall within OCR's jurisdiction--whether Boston's public school resources are being channeled to private schools set up to circumvent the school desegregation order,[553] and whether schools requesting surplus Federal resources are in compliance with Title VI nondiscrimination requirements.[554]

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[549] *Ibid.*

[550] U.S. Commission on Civil Rights, *The Federal Civil Rights Enforcement Effort--1974*, Vol. III (1974) p. 359.

[551] Testimony of John Bynoe, Director, OCR Region I, p. 1135.

[552] *Ibid.*, p. 1134.

[553] *Ibid.*, pp. 1102-03.

[554] *Ibid.*, pp. 1122-23.

RECOMMENDATIONS

R. 67. Congress should enact legislation making available, on a competitive basis, funding for innovative educational or administrative programs designed to improve the overall quality of education; communities undergoing desegregation should be given priority for such funds.

School desegregation, because it affects the entire school system, provides school officials with a valuable opportunity to take a critical look at the quality of education provided by their present educational program. School desegregation, therefore, can be used to institute necessary changes and innovations in teaching methods, curriculum, and administrative practices. Boston under Phase I of the Federal district court's school desegregation order did not take advantage of this opportunity. No systemwide review has been undertaken due to resistance by school officials to desegregation. Limited programs in Boston aimed at improving the quality of education, however, have been supported by the Emergency School Aid Act (ESAA) grant.

As presently structured, ESAA funding is limited to antidiscrimination programs intended to overcome the harmful effects to all school children of minority group isolation. [555/] As a result, there is no Federal aid intended to encourage systemwide reviews of the overall educational program offered by a desegregating school system. Legislation funding such reviews would act as an incentive to implement such valuable changes.

[555/] 20 U.S.C. § 1601 (1974).

R.68. *HEW's Office for Civil Rights (OCR) should publicize extensively in Boston its statutory duty to investigate complaints and make a substantial commitment to follow up on complaints in the 1975-76 school year*.

(a) *OCR in the 1976-77 school year should commence an inschool discrimination review of the Boston public school system*

(b) *OCR should pay specific attention to the activities of established private schools and to the development of new private schools to ensure that they are not being used to subvert the school desegregation effort*.

(c) *OCR should establish communication with the Internal Revenue Service, which should exercise its statutory authority to prohibit all private schools with tax exemptions from discriminating on the basis of race*.

OCR in Region I, with its staff of 39 professionals, can respond to complaints and thereby play an important role, along with the Citywide Coordinating Council, in ensuring compliance with the court's school desegregation order.

In addition, given Boston's history of school discrimination and the very limited scope of its earlier review, OCR should use the complaint file generated during the 1975-76 school year as the basis for a full scale, inschool discrimination review which would determine whether minority students had access to equal educational services and opportunities within Boston's desegregated schools.

Finally, in light of the large enrollment in private and parochial schools in Boston, special care should be taken to protect against subversion of the school desegregation order by the use of private schools. OCR's responsibility in this area is limited, but still important. The Internal Revenue Service has extensive and primary authority to prohibit racial or ethnic discrimination by tax-exempt private schools. The IRS should exercise this authority in Boston.[556]

(d) The Department of Health, Education, and Welfare should be authorized and directed to make resources in the Office for Civil Rights and the U.S. Office of Education available to Federal district courts ordering public school desegregation for both monitoring and providing technical assistance to develop and implement school desegregation plans.

C. DEPARTMENT OF JUSTICE

FINDINGS

F.78. The presence in Boston of six Civil Rights Division attorneys and numerous Federal Bureau of Investigation agents from the Department of Justice was an important factor in reducing the violence in Boston last fall. The threat of Federal prosecution in Boston is a substantial deterrent to unlawful activity with respect to school desegregation.

A large part of the impetus behind the continued call from city leaders for an increased Federal presence rose from a common opinion, held throughout the community, that Federal prosecution for civil rights violations was a genuine deterrent to unlawful activity. Robert Kiley, deputy mayor during Phase I and the city official responsible for coordinating all of the mayor's school desegregation responsibilities, observed that Federal arrests in October had a "visible impact" upon people in Boston.[557] Paul Parks, Secretary of Education for Massachusetts, related the popular notion that "when the FBI arrests you, you disappear forever.[558]

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[556] *See* U.S. Commission on Civil Rights *Federal Civil Rights Enforcement Effort*, Vol. III, *supra*, pp. 363-66, 387-89.

[557] Boston Transcript, pp. 101-02.

[558] *Ibid.*, p. 43.

Quite the contrary view is held of State prosecutions. Commissioner di Grazia complained that the local district courts in Boston "broomed out" cases: When community people were arrested for criminal activity related to school desegregation, the community district courts continued the cases without a finding of guilt and later dismissed the charges. 559/

F.79. The Department of Justice did not assume an effective leadership role in Boston during the Phase I school desegregation order.

Like nearly everyone else, the Civil Rights Division did not anticipate the severe and prolonged resistance to school desegregation which occurred in Boston last fall. When a black motorist was pulled from his car and beaten by whites, lower-level officials within the Division, who had been monitoring the situation partially through FBI reports but also through the media, recommended assigning Civil Rights Division attorneys to Boston. The FBI, already present in Boston, was ordered to increase substantially its investigatory efforts. 560/

Once in Boston, the attorneys made a point of visiting as many parties as possible to indicate Federal concern and commitment. No senior official, however, publicly visited Boston or took steps to dramatize this commitment.

The Civil Rights Division was correctly worried that local law enforcement authorities in Boston might rely too heavily upon Federal authority to maintain order. The position of the Department of Justice was expressed at the Commission's Boston hearing by Robert Murphy, Chief of the Criminal Section of the Civil Rights Division of the Department of Justice, in response to a question concerning the use of Federal marshals:

559/ Ibid., pp. 1547-48.

560/ Interview with six Civil Rights Division attorneys representing J. Stanley Pottinger, Assistant Attorney General, Department of Justice, by Paul Alexander, Assistant General Counsel, and Jack Hartog, Staff Attorney, USCCR, June 4, 1975.

> I think all law enforcement people would agree that the lower level at which you can maintain the peace, the better. Because you have to ask yourself, if you bring in unusual peacekeepers, what is going to happen when they leave? 561/

Consistent with this position, the Civil Rights Division shied away from the kind of vigorous arrest and prosecutorial tactics and strategy which would have put the Division at the forefront of law enforcement efforts in Boston.

Although this position has some merit when viewed in isolation, given the equivocal position of the President and the lack of any other effective Federal activity in Boston, the division's cautious approach communicated additional Federal reluctance to support school desegregation fully.

RECOMMENDATIONS

R.69. The Attorney General and the Assistant Attorney General of the Civil Rights Division should make the enforcement of Federal civil rights criminal laws in Boston a high priority.

R.70. The Civil Rights Division should continue its contact with the various law enforcement agencies involved in Boston's school desegregation process and should formulate its plans and communicate them to the relevant law enforcement agencies in Boston as soon as possible. Such plans should include the following:

(a) A team of Department of Justice attorneys and Federal Bureau of Investigation agents should be sent to Boston when school opens in the fall of 1975 to investigate whether any planned school boycotts, unlawful demonstrations, or other activities aimed at obstructing the court's desegregation order violate Federal criminal laws.

561/ Testimony of Robert Murphy, p. 1332.

(b) The Department of Justice should develop a plan by which Federal marshals and Federal Bureau of Investigation agents can be assigned to anticipated troubled areas and schools.

(c) Contingency planning should provide for the deployment of all available Federal law enforcement resources, including Federal troops.

On July 30, 1975, as preparation of these recommendations was nearing completion, Assistant Attorney General J. Stanley Pottinger of the Civil Rights Division announced, after a visit to Boston, that Justice Department personnel would be present in Boston prior to the opening of school "to assist local and State authorities in their law enforcement responsibilities in connection with the court-ordered desegregation of Boston's public schools." [562/] It is also understood that Mr. Pottinger will be responsible for coordinating all Department of Justice activities in Boston. The plan described by Assistant Attorney General Pottinger includes the basic elements of the recommendations made above and is heartily endorsed by the Commission.

D. COMMUNITY RELATIONS SERVICE

FINDINGS

F.80. The Community Relations Service (CRS), a division of the Department of Justice authorized to mediate and conciliate civil rights disputes, was assigned by the Federal district court in August 1974 the role of monitoring the court's Phase I school desegregation order.

F.81. CRS performed this task of being the "eyes and ears" of the court under very trying conditions:

(a) Its principal statutory mission--the conciliation and mediation of civil rights disputes--conflicted to some extent with its assigned duty to monitor the school desegregation order.

[562/] Department of Justice Press Release, July 30, 1975.

(b) CRS had no particular expertise in monitoring school desegregation decrees.

(c) CRS did not have enough staff to perform its normal statutory role in Boston, much less the additional role it was assigned.

The Community Relations Service has extensive experience in supplying conciliation and technical advisory services to disputing parties which can assist them in reaching mutually satisfactory resolutions of racial and ethnic conflicts. In this capacity, CRS in Boston worked at establishing biracial councils, developing voluntary monitoring programs for schools experiencing racial troubles, enlisting school desegregation assistance from the private sector, and aiding in the operation of a central information center for school desegregation matters. [563/] This conciliation and mediation role is substantially helped by CRS' statutory requirement that it keep secret all information it received in confidence. [564/] This limitation on CRS personnel permits them to operate as a trusted third party in racial and ethnic disputes.

In Boston, however, CRS was asked by the court to assume a very different role--that "of court-appointed monitor of implementation of the school desegregation order." [565/] In this "primarily informational" capacity, [566/] CRS was required to report its findings back to the court--a practice inconsistent with the strict confidence it must practice in its conciliation and mediation functions. Furthermore, all parties to the lawsuit were required to cooperate with the CRS monitoring activities--a distinctly different practice from the

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[563/] Testimony of Benjamin Holman, Director, Community Relations Service, p. 1329.

[564/] 42 U.S.C. § 2000g-2 (1970).

[565/] Statement of Benjamin Holman, p. 1329.

[566/] *Ibid.*

strictly voluntary acceptance of CRS' conciliation and technical advisory services. As a result of these conflicting roles, CRS was handicapped in its ability to discharge fully either of its duties.

An equally severe handicap to the CRS is its lack of staff. CRS committed all four field representatives from its Boston regional office to the Boston school desegregation situation and at various times supplemented this staff with eight additional field representatives.[567] Nationally, CRS currently has but 78 field representatives.[568] With such a small staff, CRS would have had difficulty performing its traditional tasks of conciliation and mediation in a situation such as Boston's. Certainly, CRS could not have handled any similar disturbances in another city at the same time.

RECOMMENDATIONS

R.71. CRS staff should be augmented so that its important mediation and conciliation efforts during the school desegregation process in Boston will not be impeded by insufficient personnel.

School desegregation is finally coming to the North. The availability of CRS' valuable technical and advisory services should not be impeded due to insufficient funding and staffing.

E. FEDERAL JUDICIARY

FINDINGS

F.82. The Federal district court in Morgan v. Hennigan provided the leadership essential to Boston's coming to grips with the unconstitutional practices which characterized the operations of its public school system.

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[567] Ibid., p. 1335.

[568] Ibid., p. 1345.

F.83. The court's Phase II school desegregation plan contains the key ingredients critical to successful school desegregation and seeks to accomplish what the Boston School Committee has not attempted--quality desegregated education.

A comparison of the student desegregation plan (announced by the court on May 10, 1975, and described in its June 5, 1975, Memorandum of Decision and Remedial Orders) with this Commission's findings on the actions required to achieve successful school desegregation [569/] indicates that affirmative compliance with the court's Phase II order can lead to the smooth and effective desegregation of Boston's schools.

[569/] See National School Desegregation Findings, supra.

☆ U. S. GOVERNMENT PRINTING OFFICE : 1975 [illegible]